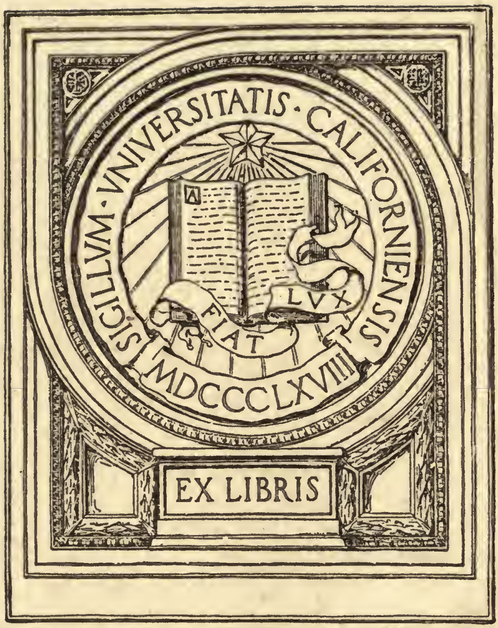


SIGILLVM · VNIVERSITATIS · CALIFORNIENSIS
FIAT LVX
MDCCCLXVIII
EX LIBRIS

Digitized by the Internet Archive
in 2007 with funding from
Microsoft Corporation

http://www.archive.org/details/modernbusinessco00woodrich

MODERN BUSINESS CORPORATIONS

INCLUDING

THE ORGANIZATION *and* MANAGEMENT OF PRIVATE CORPORATIONS

WITH

FINANCIAL PRINCIPLES *and* PRACTICES

AND SUMMARIES OF DECISIONS OF THE COURTS ELUCIDATING THE LAW OF
PRIVATE BUSINESS CORPORATIONS, AND EXPLANATIONS OF THE
ACTS OF PROMOTERS, DIRECTORS, OFFICERS AND
STOCKHOLDERS OF CORPORATIONS

BY WILLIAM ALLEN WOOD, M. S., LL. B.
Of the Indianapolis Bar

FORMS OF PROCEDURE ILLUSTRATIVE OF THE FORMATION, ORGANIZATION,
OPERATION AND CONSOLIDATION OF CORPORATIONS

Written or selected

BY LOUIS B. EWBANK, LL. B.
Of the Indianapolis Bar

LIBRARY
OF THE
UNIVERSITY
OF
CALIFORNIA

INDIANAPOLIS
THE BOBBS-MERRILL COMPANY
PUBLISHERS

HD2741
.W8

GENERAL

Copyright 1906
By THE BOBBS-MERRILL COMPANY

THE HOLLENBECK PRESS
INDIANAPOLIS

PREFACE.

The object in preparing this book has been to combine the essentials of the substantive law of corporations with the procedure in the organization and management of corporations so that the officer, director or stockholder of corporations, and also the lawyer for corporations, may have a ready reference manual by which to gauge his actions. Much of the litigation in corporation lines arises out of the ignorance or ignoring on the part of these persons of the essentials herein contained; also many of the failures of corporations arise from deflections from the principles of management and finance which are here introduced. The yearly economic waste from these sources is enormous. The principles of capitalization and finance have been given lengthy treatment because lawyers are rarely ever familiar with them and because these principles are not contained in any other book on this subject. The corporation lawyer of to-day should understand particularly well the principles of capitalization since, in most of the instances where he is called upon to incorporate companies, his advice is asked on this matter. It should be remembered that honesty and conformity to law in the organization and administration of corporations is the best policy even from the most selfish standpoint. The spirit of the following extract from the last report of the National Biscuit Company is commended to the officers and directors of corporations. After explaining that corporations are inevitable and desirable, and that our whole commercial character depends on the management of them, the writer of the report says: "Every officer of a corporation should endeavor so to manage its affairs that it shall commend itself to the people of the country so that the attitude of the people towards corporations shall be not hostile, but friendly. To accomplish this, the vital point, it seems to us, is that the corporation must not be separated from the individuals who manage its affairs, and that these individuals must carry into the management of the corporations the same rules of conduct that they apply to their private lives. They must not have one standard of morality as officers and another as private individuals. They must not only obey the law, but they must actively support the law."

Neither lawyers nor laymen having to do with corporations can have too extensive a knowledge of the well-established principles of corporation law. It would be impossible in a book this size to include the exceptions declared by positive rules of law in matters of detail; but a book of this kind furnishes a basis for all later and more extensive knowledge, and suggestions of caution are liberally sprinkled in places where they are most needed. The authorities used in the preparation of this book are many; but principally the following works have been consulted: Seymour D. Thompson on Corporations, Elliott on Private Corporations, Dill on New Jersey Corporations, Conyngton on Corporate Management and Meade on Trust Finance.

It has been the plan, as far as possible, to arrange the divisions of the subject as to their time sequence in the formation, organization and management of corporations, and to keep from chopping the subject into such small bits by sectional arrangements that its organic conception is destroyed. A book of this kind is necessarily an interweaving of law and business economics, as corporate business purposes are forwarded only through the union of corporate powers and corporate funds or assets.

WILLIAM ALLEN WOOD.

INTRODUCTORY.

Sohm, in The Institutes of Roman Law, says: "The conception of a collective juristic person as a possible subject of *private* rights was not developed till towards the close of the republic with the rise of the system of municipal government. The property of the municipium or town-community was brought under the private law, and the municipium thus acknowledged as a person capable of private rights and duties. * * * [The juristic person of Roman law] represents a kind of ideal private person, an independent subject capable of holding property, totally distinct from all previously existing persons, including its own members. It possesses, as such, rights and liabilities of its own. * * * In point of law, the collective person is a new individual like other individuals. * * * Roman law contrived to accomplish a veritable masterpiece of juristic ingenuity in discovering the notion of a collective person; in clearly grasping and distinguishing from its members the collective whole as the ideal unity of the members bound together by the corporate constitution; in raising the whole to the rank of a person (a juristic person, namely), and in securing it a place in private law as an independent subject of proprietary capacity standing on the same footing as other private persons. * * * A natural person, then, is a visible individual person, a human being; a juristic person, within the meaning of private law, is an ideal individual person with proprietary capacity, created by means of organization." So much for the origin of the corporations.*

In the time of the republic of Rome voluntary corporations were formed so extensively and so without restriction that they were all dissolved by a law passed 64 B. C. Later they were revived, and under Julius Cæsar it was required that the objects of incorporation should be clearly defined in the charter (articles), and that every charter should be submitted to Cæsar for approval. After the fall of Rome, and during the Middle Ages, the business corporations did not cut much figure. Church and workmen's guild corporations flourished. Later great trading corporations, such as the East Indian Company, the Hudson Bay Company, and many similar corporations were organized in England and other European countries. The English companies got to be monopolistic, and, in the end of Elizabeth's reign, two hundred shareholders controlled five-sixths of the foreign trade of England. These companies were created by special charter. England now has general incorporation laws. In colonial times in America corporations were formed through grant of charter by the crown or by the governors as representatives of the crown. From time to time the separate colonies became independent states. Up to 1837 charters were granted only through special acts of the legislatures. In 1837 a business corporation act, drawn by Theodore Hinsdale, a graduate of Yale, was passed by the Connecticut legislature. This was the first act of the kind in America, and it was the model for the general enabling acts for business corporations passed by the other states for several years after. The working of this kind of legislation was so satisfactory that the creation of corporations by special acts has been forbidden by the constitutions in many of the states of the Union. Later years and wider experience have developed a more liberal kind of code, which follows the modern theory that, in the absence of fraud in organization and management, a business corporation should be allowed to do anything that an individual may do. A model code, called The Business Companies' Act, was formed on this idea, and was drawn up under the direction of the eminent corporation counsel, Mr. James B. Dill, of New York, and the eminent economist, Professor Jeremiah W. Jenks, of Cornell University, and was recommended in 1900 to the New York legislature by Governor Roosevelt. It is worthy the study of all who are interested in the reform of this important branch of the law. The Industrial Commission, also, has made some important recommendations as to reforms in corporation law.

---

* Gaius traces corporate bodies to the time of Solon of Athens.

TABLE OF CONTENTS.

PART I.

PRIVATE CORPORATIONS: DEFINITION, ADVANTAGES, LEGAL STATUS, ETC.

SECTION. PAGE.
1. Corporation: Definition.............................. 1
2. Kinds of Private Corporations.............................. 2
3. By What Laws a Private Corporation is Governed......... 2
4. Incorporation in More Than One State.................... 3
5. Special Acts of Incorporation.............................. 4
6. Difference Between a Private Corporation and a Joint Stock Company 4
7. Advantages of Incorporation.............................. 5
8. Two Theories of the Duty of a State in Creating a Corporation 7

PART II.

THE FORMATION AND ORGANIZATION OF A PRIVATE CORPORATION.

SECTION. PAGE.
9. Who May Form a Private Corporation.................... 14
10. Fortuitous Association of Individuals.................... 14
11. Definition of Promoter, and the Promoter's Functions..... 15
12. Promoters' Profits.............................. 16

SECTION. PAGE.
13. Fiduciary Relation of Promoter to Prospective Corporation 17
14. Responsibility of Fiduciary Relation and Recovery for Breach 17
15. Promoter's Fraudulent Representations or Concealment, and Liability Therefor 18
16. Failure of Organization of the Corporation and Promoter's Liability 19
17. Corporation's Liability for Services Rendered by Promoter 19
18. Promoter's Lack of Agency 20
19. Contracts Made with Promoter 21
20. Inter-relation of Promoters 21
21. Aiders and Abettors of a Fraudulent Promoter 22
22. Where to Incorporate 22
23. Special Advantages and Disadvantages in the Corporation Laws of the Liberal Commonwealths 23
24. Relation to the Creating State of a Corporation Whose Principal Office and Business are Located in a Foreign State. 27
25. A Corporation's Relation to Foreign States 28
26. Capitalization: Definition 31
27. Determining the Amount of Capitalization 32
28. More Things in Regard to Stocks and Bonds to be Considered Before Capitalizing 39
29. Capitalizing at Less Than Real Value 44
30. Placing Stocks and Bonds 45
30a. Financial Banking and Trust Organization 50
31. The Stock Exchange 59
32. The Sale Price of Stocks and Bonds With Reference to Time of Issue 62
33. Changing a One-Man Business or Partnership Into a Corporation 65
34. Proper Valuation of Private Business or Partnership Assets, Patents, and Other Property to Safely Constitute Stock Exchanged for Them Full-Paid 68
35. Stock Subscriptions 69

PART III.

CHARTER, ARTICLES, BY-LAWS AND RULES OF ORDER.

SECTION. PAGE.
36. The Charter and Articles of Association 75
37. The Purposes for Which a Corporation is Formed 76
38. Powers Common to All Corporations 77

SECTION. PAGE.
39. *Ultra Vires* Acts.. 77
40. Amendment of Charter and Articles........................ 79
41. Irregular Incorporation.................................. 82
42. Forfeiture of Charter by Non-User........................ 82
43. The Beginning of the Existence of a Corporation.......... 82
44. By-Laws 82
45. Rules of Order... 87

PART IV.

DIRECTORS AND OFFICERS.

SECTION. PAGE.
46. Number, Qualifications, Powers, and Right to Choose and Remove 91
47. Directors' Meetings...................................... 98
48. The President... 100
49. The Vice-President 101
50. The Secretary... 102
51. The Treasurer... 103
52. The Managing Director and General Manager............... 104
53. The Counsel... 104
54. The Auditor... 105
55. The Committees.. 105

PART V.

CAPITAL STOCK AND BONDS.

SECTION. PAGE.
56. The Nature of Capital Stock............................. 109
57. Fully Paid and Partly Paid Stock........................ 111
58. Bonus and Watered Stock................................. 111
59. Usual Kinds of Stock.................................... 113
60. Registrars and Transfer Agents.......................... 120
61. Incidents of Issue and Transfer of Stock................123
62. Bonds 125

PART VI.

STOCKHOLDERS.

SECTION. PAGE.

63. Stockholders' Powers, Rights and Liabilities.............. 133
64. Stockholders' Meetings 134

PART VII.

CORPORATION BOOKKEEPING, AUDITING AND ACCOUNTING.

SECTION. PAGE.

65. Corporation Bookkeeping, Auditing and Accounting....... 143
66. A Corporation's Books.................................... 167
67. The Minute Book.. 168
68. The Stockholders' Ledger................................. 171
69. The Book of Stock Certificates........................... 172
70. The Transfer Book.. 174
71. The Dividend Book.. 176
72. The Subscription Book 176
73. The Instalment and Instalment Scrip Books............... 178
74. The Corporation Calendar................................. 179
75. Books Required by Law.................................... 181

PART VIII.

DISSOLUTION, CONSOLIDATION, AND REORGANIZATION, AND RENEWAL OF CHARTER.

SECTION. PAGE.

76. Dissolution of a Private Corporation..................... 185
77. Consolidation of Private Corporations.................... 187
78. Reorganization of a Private Corporation.................. 188
79. Renewal of Charter....................................... 190

PART IX.

FORMS.

PAGE.
Illustrative Instruments of Procedure for the Formation, Organization, Management and Consolidation of Private Business Corporations.............................. 193 *et seq.*

PART X.

MISCELLANEOUS.

PAGE.
Trusts and Voting Trusts.................................. 257
Corporation Receiverships................................ 260
Corporate Credit.. 262
Marketing Notes in the Open Market...................... 267
The Corporate Seal and Corporate Signatures.................. 270
The Corporation Lawyer...................................... 272
Corporation Bond and Stock Investments...................... 275
The Magnitude of Corporations.............................. 278
Distribution of Corporate Wealth............................ 281
Origin of Commercial Manifestations of Corporate Existence: Stock Exchanges, Stock Brokers, and Evidences of Title to Corporate Shares and Debt Secured by Mortgage............ 283
Unintelligent Competition.................................. 289
Advantage of Foreign Corporations in Courts.................. 299

APPENDIX.

PAGE.
Rules of the New York Stock Exchange on the Admission of Listed and Unlisted Securities.............................. 303
Bibliography of Useful Books on Corporations................ 311
Charts Showing Possible Distribution of Officers, etc., and Their Responsibility 314
Chart Showing How a Great Engineering Company Distributes the Management of Its Business.......................... 315
Tables of Incorporation Fees, Taxes, etc................316 *et seq.*
Table of the Income-Yielding Capacity of Stocks................ 320
Tables of the Interest-Yielding Capacity of Bonds...... 321 *et seq.*

OF THE
UNIVERSITY
OF
CALIFORNIA

MODERN BUSINESS CORPORATIONS.

PRIVATE CORPORATIONS: DEFINITION, ADVANTAGES, LEGAL STATUS.

§ 1. Corporation: Definition.
2. Kinds of Private Corporations.
3. By What Laws a Private Corporation is Governed.
4. Incorporation in More than One State.
5. Special Acts of Incorporation.
6. Difference Between a Private Corporation and a Joint Stock Company.
7. Advantages of Incorporation.
8. Two Theories of the Duty of a State in Creating a Corporation.

§ 1. CORPORATION: DEFINITION.

According to contemporary practices, a corporation is an association of natural persons, or of artificial persons (other corporations), or of both together, authorized by law to act as a unit, under a corporate name, for the accomplishment of certain definite and prescribed purposes. It is a "person" constituted by law, separate and distinct from its stockholders, and, in a certain sense, is a citizen. Actions at law may be maintained against it the same as against a natural person. "Company" is the word commonly used in speaking of a corporation, though it is wider in its definition and may refer to a partnership, or a firm, or to a joint stock association, as well as to a corporation. A corporation has its origin in an agreement between individuals, but incorporation becomes effective only through the operation of a special charter or a general enabling act, whose provisions are accepted by the execution of the agreement, called the articles of association.

§ 2. KINDS OF PRIVATE CORPORATIONS.

Private corporations are classified (1) "for profit," or (2) "not for profit." The first are for money-making purposes and include commercial, or business, or industrial corporations, such as manufacturing, refining, mercantile corporations; and financial, or moneyed corporations, such as banks, trust companies, and insurance companies; and transportation corporations, such as railroads, steamship, telegraph, and telephone companies; and development companies, such as mining, oil and stone quarry companies. Corporations "not for profit" include benevolent and religious associations, certain colleges and schools, clubhouses, and the like. Semi-public or franchise corporations are those which operate under franchises that usually relieve them, in some measure, from competition, and which the general public desires to patronize so far as convenient or necessary. These are public utility corporations, such as railroad, street car, telegraph, telephone, electric light, gas and heating companies.

§ 3. BY WHAT LAWS A PRIVATE CORPORATION IS GOVERNED.

All the states have general enabling acts relative to corporations. A business corporation usually has all the powers granted it by the state under whose laws it was organized, and it is governed primarily by the laws of that state. It does business in other states by sufferance, but no matter what are the corporation laws of other states in which it may do business, it is not usual, so far as charter rights are concerned, that restrictions are imposed upon it other than the restrictions imposed by its parent state. As it is impossible for a parent state to give extraterritorial force to its laws, however, so far as a company does business in another state than that in which it is organized, that state has the power to impose on the capital or interest represented in its territory the same restrictions that apply to corporations organized under its own laws. Insurance companies and banks, building and loan associations, and other financial companies, and steam railway corporations are more frequently regulated by the individual states in which they do business than are other kinds of corporations. Citizens of a state whose laws stringently regulate the organization of corporations under its authority may organize under the laws of a state which gives liberal privileges to corporations and may then usually do business in the state of their residence with all the privileges their charter grants.

It has not been determined that congress possesses, under the constitutional right to regulate interstate commerce, the power to charter corporations which do an interstate business. It makes a practice of chartering national banks and certain other corporations under the authority of the constitution to maintain the national physical existence. But it is as a means of executing powers of the national government, and not as an end, that congress creates a corporation. Professor Wilgus, of the University of Michigan, argues very well in a monograph entitled A National Incorporation Law, that congress has the power to create corporations which are engaged in interstate business.

§ 4. INCORPORATION IN MORE THAN ONE STATE.

Sometimes a company, or what is to all intents and purposes one company, is incorporated under the laws of several states. This happens in the case of railways that have interstate lines. The charters are the same, or similar, in the several states, and all the lines are managed by one governing body. Under former rulings it was held that the several corporations maintain a separate and individual identity. Judge Seymour D. Thompson says in his work on corporations: "This casuistry was not suited to the practical needs of a business people; and consequently the court which first propounded it was compelled to abandon the doctrine. * * * Accordingly the doctrine of the court now is that several states may, by competent legislation, unite in creating the same corporation or in combining several pre-existing corporations into a single one; that one state may make a corporation of another state, as thus organized and conducted, a corporation of its own as to any property within its territorial jurisdiction; and that a state may by an enabling act authorize a corporation created in another state to build and use a railroad within its own limitations without creating a new corporation." Ordinary private business corporations are not concerned in the ability of a corporation to be the creature of more than one state.

§ 5. SPECIAL ACTS OF INCORPORATION.

The creation of corporations by special legislation is now generally prohibited by the state constitutions, but a few years ago all corporations were so created. The territories are prohibited by federal statute from granting private charters. In some instances where special charters are prohibited by statute, the prohibitory legislation applies only to certain kinds of corporations. Current legislation tends to limit the field in which private corporations may be created by special act. It would be an extraordinary private business corporation that could not be organized satisfactorily under the existing laws of one of our commonwealths.

§ 6. DIFFERENCE BETWEEN A PRIVATE CORPORATION AND A JOINT STOCK COMPANY.

A joint stock company is a partnership, composed of numerous partners, which has the following features in common with a corporation: (1) Continuousness, so that any member may transfer his shares (with or without the consent of the other members), and thus introduce a new partner without dissolving the previous business body. (2) A board of directors or trustees controls the body, and no member of the company has agency to act for the company as whole. It differs from a corporation in that the members of the joint stock company are liable for the debts of the company jointly and severally as in a partnership, whereas the members of a corporation are not liable for the debts of their organization, except when made so by statute, or when special qualifications have been made rendering them liable. And it also differs in that a joint stock company sues and defends in the name of an officer empowered to sue and defend, while a corporation sues and defends under its corporate name. A joint stock company may exist without express authority from a state, as it is created by contract. In many states, however, such companies are provided for by statute. The joint stock company is an infrequent form of American business association.

§ 7. ADVANTAGES OF INCORPORATION.

The first advantage of incorporation is that of continuous succession, or indefinite duration. Unless it becomes insolvent, or voluntarily dissolves, or the term of its existence, fixed by law, expires, the corporation remains a business "person." Any fortuitous vicissitudes, such as a disagreement of stockholders, insolvency of stockholders, death of a stockholder or disability in any other direction, does not affect the life of the corporate body. This intact condition is rendered possible in ordinary business corporations through the shares of stock which represent each shareholder's interest in the business, and which may be transferred indefinitely without the act of transference, *per se,* affecting the corporation in the least. A second advantage is that, in providing the funds for establishing and running a business, the capitalization may be divided almost indefinitely, so that people of small means as well as those of large may contribute their share of funds and receive their share of dividends on their contribution. The stock of a corporation may have a par value of $1, $50, or $100 per share, the most common amounts, or any other amount the incorporators may elect, if minimum and maximum amounts are not prescribed by state law. In financial, mercantile, manufacturing and transportation corporations the par value is usually $100, while in mining and oil companies the par value is often $1 per share. Small investors frequently speculate in development companies to the extent of $25 or $50, whereas if they were compelled to pay $100 per share they could not join in the company. In mining ventures it is frequently the case that half the stock is taken in small subscriptions. Another advantage of incorporation is that the stock representing the holder's share may be used as collateral security for borrowed money. A partner cannot use his interest in a business as security for a loan in the way of a pledge. Where there is actual value behind it, stock is also more readily marketable than a partnership interest and may be transferred by the simple method of indorsement. When an individual or firm wants to sell a large and established business which produces a fair and uniform income, the easiest way to do this is by incorporating the business. The larger a business is the more difficult it is to find buyers. By incorporating, interests in the business may be sold to many buyers and probably a larger price can be realized than if the business had been sold to a single buyer or to two or more partners. When an individual requires money for his business, by incorporating and selling stock he avoids the dangers that come from admitting partners. The limited liability feature of a corporation is one of its chiefest advantages. A subscriber to stock in a commercial corporation is liable only to the par value of the stock purchased. If it is issued "full paid" in *bona fide* payment for property or services, he is not liable unless fraud is provable in the matter of the valuation of the property or services. In banks, trust companies, and other financial institutions a double liability is usually imposed, making the stockholder liable in the amount of his total holdings as expressed by the par value of a share multiplied by the number of shares held, and to the amount of the par value of his holdings in addition. Thus the subscriber to stock always knows how much he is risking in taking it, and no one who buys his stock is liable for more than the original holder. But in a partnership the partners are jointly and severally liable to the extent of all their possessions for the debts of the firm, less the amount of the legal exemption for debts, and for all other liabilities. For instance, if a partner, even through haste or mistake, makes an oral agreement or signs a contract, if an employe commits an error or is injured, or a man outside of the business suffers damages by carelessness on the part of the firm in protecting the public from the machinery or the apparatus of its business, or from carelessness of an employe, all a partner's means stands as security for a judgment against the firm guilty of such inadvertence or whose agent or employe is guilty. The vicissitudes which may overtake a partnership are many. A partner may withdraw his interest in a business, crippling or ruining the business. He may be sick, become insane, or die, causing a dissolution without the consent of the other partners. If private creditors seize a partner's interest, the firm is dissolved. If a partner dies, his administrator or executor may withdraw that partner's share. His estate then usually receives only the value of his portion of the tangible assets, without the added value of good will or earning capacity. On account of large earning capacity, stock in a corporation may be worth twice its par value. An administrator sells the stock for the market price, and could not, if he would, considering the business to be well managed and solvent, withdraw from the business the interests represented by the stock. Moreover, one partner cannot sell his interest without the consent of the other partners in the business, nor can he take his children into the business, or, indeed, permit them to become apprentices, without the consent of the other partners. The prestige and good will of an unincorporated company may attach to one of the firm, while they are more likely to be identified with the company in case of incorporation. And by no means the least advantage, the corporate form of business administration offers a uniform, orderly, well-defined and systematic plan of procedure, a mechanism for the conduct of business, that, when properly used, is as superior to the partnership form as is a modern locomotive to a locomotive of fifty years ago. So, when large interests are at stake, the corporate form of association is safer and more satisfactory.

§ 8. TWO THEORIES OF THE DUTY OF A STATE IN CREATING A CORPORATION.

In a report which a committee on corporations made to the legislature of Massachusetts in 1903 there were set forth two general theories, as revealed by the state laws bearing on corporations, as to a state's duties in creating corporations. The first is the old theory that, being creatures of the state, corporations should be guaranteed by it to the public in particulars of responsibility and management; the second is the opposite, modern theory that, in the absence of fraud in a corporation's creation or government, the common business corporation should be permitted to do anything that an individual may do. Under the former theory, the capital stock of the corporation was, in the law, considered a guarantee fund for the payment of creditors as well as a means of conveniently measuring the interest of the individual owners of the corporation. There resulted from this theory the principle that the capital stock, being in the nature of a guarantee fund, shall be paid for at its par value in actual cash, and other provisions protective of creditors, such as that wherein is provided that the debts of a corporation shall not exceed its capital stock, a provision designed in the interests both of creditors and stockholders, who are looked after as carefully as if, when connected with corporation matters, they were wards of the state. Other provisions of laws enacted under this theory limit the par value of shares, make stockholders liable in excess of their actual or contracted investment, and impose on directors liability for debts of the corporation which may arise out of the ordinary chances of business. The results of this system are that technical and sometimes dishonest means are created for avoiding the laws, and capital organizes itself under the more liberal states, states wherein frequently not any of the capital is represented or the business transacted. The states having these laws have failed in their attempts to give the intended security to creditors and stockholders, and the decisions of the courts under these laws are confused. Under the modern theory, the state owes no duty to persons who deal with corporations to look after the solvency of corporate business enterprises, nor to the stockholders to protect them from the consequences of going into such concerns, the idea being that in the case of ordinary business corporations, the state's duty ends in providing clearly that creditors and stockholders shall be able at all times to secure the precise facts concerning the organization and management of such corporations, and especially that full publicity shall be given to all the details of the original organization. Charles A. Conant says in his book entitled Wall Street and the Country: "It is a question whether the protection of the investor in the future should not proceed along the lines of his economic education rather than along the lines of new restrictions upon corporations. Just so far as the government relieves the citizen of the obligation of looking out for himself, it promotes a condition of dependence upon the state which is detrimental to genuine economic progress." In the last decade many radical changes have taken place in the industrial and economic conditions of the United States. The aggregating tendency of capital has resulted in the organization of thousands of corporations. Some of the states have recognized the necessity of providing for the fullest development of the legal entity of the business corporation and have enacted laws which concede the rights and privileges of that entity. New Jersey, Delaware, Maine, and South Dakota adopted liberalized corporation laws, and were followed by New York, Massachusetts, the District of Columbia, Connecticut, West Virginia, Nevada, Arizona, Virginia, New Mexico, and Washington. Several states now have commissions at work revising their corporation laws. Particular interest will attach to the result of the work of the Minnesota commission, which has adopted the most thoroughgoing system of investigation and revision that any state has ever attempted.

PART II.

THE FORMATION AND ORGANIZATION OF A PRIVATE CORPORATION.

THE FORMATION AND ORGANIZATION OF A PRIVATE CORPORATION.

§ 9. Who May Form a Private Corporation.
10. Fortuitous Association of Individuals.
11. Definition of Promoter, and the Promoter's Functions.
12. Promoters' Profits.
13. Fiduciary Relation of Promoter to Prospective Corporation.
14. Responsibility of Fiduciary Relation and Recovery for Breach.
15. Promoter's Fraudulent Representations or Concealment, and Liability Therefor.
16. Failure of Organization of the Corporation and Promoter's Liability.
17. Corporation's Liability for Services Rendered by Promoter.
18. Promoter's Lack of Agency.
19. Contracts Made with Promoter.
20. Inter-relation of Promoters.
21. Aiders and Abettors of a Fraudulent Promoter.
22. Where to Incorporate.
23. Special Advantages and Disadvantages in the Corporation Laws of the Liberal Commonwealths.
24. Relation to the Creating State of a Corporation Whose Principal Office and Business are Located in a Foreign State.
25. A Corporation's Relation to Foreign States.
26. Capitalization: Definition.
27. Determining the Amount of Capitalization.
28. More Things in Regard to Stocks and Bonds to be Considered Before Capitalizing.
29. Capitalizing at Less Than Real Value.
30. Placing Stocks and Bonds.
30a. Financial Banking and Trust Organization.
31. The Stock Exchange.
32. The Sale Price of Stocks and Bonds With Reference to Time of Issue.
33. Changing a One-Man Business or Partnership into a Corporation.
34. Proper Valuation of Private Business or Partnership Assets, Patents, and Other Property to Safely Constitute Stock Exchanged for Them Full-Paid.
35. Stock Subscriptions.

THE FORMATION OF A PRIVATE CORPORATION.

§ 9. Who May Form a Private Corporation.

Three or more natural persons (the expression "natural persons" means men or women, in contradistinction to "artificial persons," such as corporations) of legal age may come together for the formation of a corporation. Sometimes one or more of the number must have citizenship in the state under whose laws the corporation organizes. Married women may be corporators if the statutes of the state in which the corporation is organized have removed the common law disabilities of married women. Any natural person capable of contracting may be a corporator. Partnerships, corporations, minors, persons mentally incompetent, may not be original subscribers to stock, though, by transference, they may come into possession of stock and may hold it. The personality, previous business success, and reputation for integrity of the corporators often have much to do with the sale of stock after a company has been incorporated, so that a promoter should usually look beyond the mere ability of a person to furnish money for his enterprise.

§ 10. Fortuitous Association of Individuals.

It may be desirable that a partnership concern be changed into a corporation, in which case the partners alone, or with friends or other investors, become the corporators. Or a person may have a plan for business which he communicates to his friends, or to any persons having sufficient means to take stock, who may agree to join him in the formation of a corporation. Bankers and capitalists have frequent opportunity to know of desirable manufacturing businesses, or transportation or development schemes, and, when satisfied of the comparative safety and of the reasonable prospects for good returns, choose a few of their friends and acquaintances and offer them the opportunity to put in money to furnish the funds necessary to start the company. Usually the banker or capitalist does not make any commission or profit because of his little work in getting the necessary capital in addition to what he puts in. He does not go far out of his way to get the additional money. The association of himself and the other incorporators is largely fortuitous. He knows several people with money to invest, and he sets before them the plans of the company. They invest or do not invest as they choose, without having been especially sought out and having had applied to them the particular and enthusiastic persuasion that the professional former of corporations would use.

Formation by Promoters.

§ 11. *Definition of "Promoter," and the Promoter's Functions.* The word "promoter" has not yet a legal definition, but is a business term familiar in corporate finance. A promoter, in business practice, is one who seeks fields for investment in new enterprises or in the extension or diversification of established industries, and, for a consideration, forms and organizes a corporation to develop the particular field he has chosen. The promoter commonly attends to everything connected with the floating of an enterprise. In the first place he finds an enterprise with prospects of good returns on the money to be invested; he employs technical experts in the line of industry to prepare the figures of cost and prospective returns, so he and those to be interested with him may know as exactly as may be what they have and what they may expect; he prepares a prospectus based on the expert's figures; he secures legislation, where that is necessary; he secures options and leases, where they must be secured. In short, he "assembles" the proposition. Then he employs a corporation lawyer to prepare the articles of incorporation, and secures the necessary subscribers to the articles, sees that the articles are recorded and filed, that the certificate of incorporation is issued, and pays the incorporation costs; he sells the stock of the company directly to the public, or to bankers or other underwriters whom he has usually provided for before organizing the corporation, and ordinarily he takes his own profit out in stock. His relation to the corporation is fiduciary.

§ 12. *Promoters' Profits.* The promoter has to create value to entitle him to profit. He provides a new or original means of making money, and makes the means productive through the development of a "going" concern for the utilization of that means. His profit, though large, is legitimate profit. It is arrived at usually as follows. From the figures of the technical expert on the proposition, the promoter arrives at a conclusion as to the total net profits of the business when it has been developed. If he is a conservative man, he capitalizes his business on the basis of its average earning capacity with only enough "water" to provide for increased earnings. If the proposition was one worth his efforts, it was a proposition which could be capitalized at a figure greatly in excess of what he paid for it in its undeveloped condition, and also in excess of this cost price and the development cost combined. The difference between these costs and the sum which he receives for the stock represents his profit. If options have been paid for before the property has been bought, their cost usually comes out of the promoter's profit. As a rule, the earning capacity of his proposition is such that the promoter can capitalize so as to provide sufficient working capital and sell the common stock at from fifty to seventy-five cents on the dollar, which is desirable to facilitate the sale, and still have for himself a margin of profit of from fifteen to thirty per cent of the capital stock. He is perhaps offering stock that will some time net the investor six to twenty per cent. The promoter is equipped for his work by his resourcefulness in finding new and worthy enterprises, and ability to harmonize interests and handle men, by his financial connections, and his business experience generally. To combine the original resources for wealth and the money to develop them, he works according to system, going out to find the resources, perhaps, and making definite and extensive effort to secure the funds for operation. The association of individuals in the promoter's corporation is not fortuitous, but is the result of the work of a trained business agent, the promoter, who is working for his own profit, and is earning his profit by assembling the business proposition and by securing the incorporators and other investors.

§ 13. *Fiduciary Relation of Promoter to Prospective Corporation.* Before the organization of a corporation the promoter of that corporation is regarded as a trustee for those who shall be entitled to act for it, and can be held to this fiduciary relation until the corporation has been in existence and engaged in business for a year, when responsibility for the relation ceases. Hence, when the corporation comes into existence the promoter must make a full and fair disclosure of all his acts as promoter, and he must include a disclosure in full of what he is to receive as compensation for bringing the company into existence.

§ 14. *Responsibility of Fiduciary Relation and Recovery for Breach.* The corporation which the promoter organizes is an artificial child of the promoter which is of age at birth. To give this child an independent being, the promoter is bound to give his corporation a board of directors which, in its dealings with him, will act for the corporation in its capacity of a separate and independent being whose interests may or may not be the interests of the promoter.* The promoter is bound in law not to take any secret or unfair advantage of the child. Hence he must make to the board of directors or to the stockholders or other governors, when his corporation is organized, a full and fair disclosure of his transactions previously performed for the corporation and his interest in each of them, much as the guardian of a child makes to the court when the child becomes of age. Money or property this father had received before the birth of the child he must account for, as having been held in trust by him.

It has been held that a statement in a prospectus of the promoter's interest in the transactions is a sufficient disclosure. All facts necessary to determine the desirability of a property for purchase constitute a full and fair disclosure. Methods of violating the fiduciary relation include the purchase of property at one price and the sale of that property to the corporation at a higher price, the receiving by the promoter of a bonus or commission from a vendor for negotiating the sale of the vendor's property to the corporation, secretly retaining the difference in prices, or the bonus or commission. These are the most common violations of the fiduciary relation. The profits in such cases are held to belong to the corporation and can be recovered by suit against the promoter. When, however, the promoter of the corporation which takes the property was owner of the property before the fiduciary relation began, what he paid for it is, in the absence of fraudulent representations and provided the stock subscribers had opportunity to examine the property, not a matter for disclosure, since, in buying the property, he acted for himself. And, if a promoter, having an option on property, sells to his corporation at a profit, where, in the subscription papers or in other form of notice he says he has an option and will sell the property to the corporation for a certain price, and no representations were made as to the price he paid for the property, he does not have to account for the profits.

---

* If, however, the truth has already been disclosed to those who join with the promoter in the organization of the company, there is authority (Lagunas Nitrate Co. v. Lagunas Syndicate, L. J. Ch. 699, L. T. Rep. N. S. 334) for a modification of this principle to the effect that duty is not incumbent on the promoter to provide his corporation with an independent board of directors.

§ 15. *Promoter's Fraudulent Representations or Concealment, and Liability Therefor.* A promoter is not liable for representations made in good faith with an actual and honest belief in their truth unless he agrees to guarantee his representations. But if he makes unqualified assertions without knowing whether or not they are true, he is liable. If he fraudulently misrepresents or negatively conceals facts which it is his duty to disclose, one who suffers loss may recover from him. If subscriptions to stock are obtained by misrepresenting or concealing facts, subscribers may recover damages. If the misrepresentation is by way of a prospectus, damages may be recovered the same as if the misrepresentations were made by word of mouth. In English law, after shares of stock have been transferred from the original purchaser, damages cannot be recovered by the second purchaser for misrepresentations in a prospectus unless the second purchaser saw the prospectus before he purchased the shares. American decisions hold that it is not necessary that misrepresentations should have been communicated directly to the person who was induced thereby to purchase shares; it is sufficient that the misrepresentations deceived any person who came to know of them. A promoter is likewise liable for negative concealments which have the same effect as misrepresentations. When a promoter conceals from a corporation that he is interested in a sale of property, and is the actual vendor of the property to the corporation, and realizes a profit from the sale, the corporation may have the sale rescinded and may recover the money paid for the property. It has been held that where a promoter is held to account for secret profits he is entitled to a set-off to the amount of expenses he has incurred in good faith in promoting the corporation,—for advertising, brokers, options, etc., but not for any sums he has dispensed fraudulently.

§ 16. *Failure of Organization of the Corporation and Promoter's Liability.* If a promoter fails in his attempt to organize a corporation he is liable to subscribers for stock for any sum of money received from them, unless he has used the money in forwarding the project with the knowledge and consent of the subscribers. If the subscribers have agreed with a promoter that they will share losses with him if the project fails, they cannot recover in full. If subscribers agree to the application the promoter makes of their money, they have no recourse, unless the project was a swindle and they did not have knowledge of this fact until after they had acquiesced in the application of the money.

§ 17. *Corporation's Liability for Services Rendered by Promoter.* It is a rule with many apparent exceptions that a corporation is not liable for a promoter's services or expenses incurred by him in bringing the corporation into existence unless the corporation's charter or a statute so provides. A promoter is reasonably safe, however, in rendering services and expending deposits received from stock subscriptions, for decisions practically establish the principle that services or expenses which are necessary to the existence of a corporation and the benefits of which it must accept if it exists at all, must be paid for by the corporation. The logic of these decisions is not clear-cut and the contact of the decisions with established legal principles is faulty. In order that the corporation be bound for such services and expenses, it has been held that they must have been necessary, reasonable, and for the benefit of the future corporation, and must have been performed or incurred under a contract with the promoter and with the expectation that they be paid for or paid by the corporation itself, and not by the individual corporators. When all the corporators request services to be rendered, and no other persons are added to the list of corporators or stockholders thereafter, it has been held that the corporation is liable for the value of the services. Where other persons join the corporators after the request, whether they join as corporators or stockholders, the corporation is not liable.

§ 18. *Promoter's Lack of Agency.* A promoter is not agent for a corporation to be organized, because the principal is not in existence. He cannot affect the embryo corporation by his representations or assertions or by contracts made for it. But he practically becomes agent by adoption when, after the corporation comes into existence, it adopts contracts or agreements made in its behalf or accepts the benefits of such contracts or agreements, having knowledge of them and having had opportunity to decline them. Legally speaking, he does not, however, become agent in fact, for, in order to adopt the engagements made by the promoter in a manner other than accepting their benefits, such corporate action is necessary as when the corporation makes a contract in its own behalf. That is, the corporation enters into a new contract through its officers or governing body. It has also been held that an engagement made by a promoter which would not, in an organized company, necessarily be made by formal action of directors or trustees, but might be made by the president or manager, may be adopted without the formality of concurrence by the directors or trustees.

§ 19. *Contracts Made With Promoter.* So far as the future corporation is concerned, contracts or engagements made with a promoter have been held to amount only to a proposition for a contract with the corporation to be organized. So that when a subscription to capital stock has been given a promoter before the corporation is organized and there was an acceptance, and the corporation later comes into existence and accepts the subscription by issuing the subscriber's certificate, offering him an opportunity to vote his stock, or otherwise recognizing him as a subscriber, the subscriber is bound for payment. It has already been seen that a corporation may adopt a promoter's contracts and therefore become liable for them. But a promoter is himself liable for engagements contracted in the name of his corporation until it comes into actual existence and until it adopts them either impliedly by accepting the benefits under them, or by action of an officer or of the governing body. In case the corporation is not formed, the promoter is personally liable for all contracts he has made, and, if there are several promoters, each is liable for contracts he has made or in whose making he has concurred. If, however, a creditor waives his right against a promoter and agrees to look to the corporation to pay when it shall be formed, the promoter is not liable. When it has been arranged that the creditor shall look only to the promoter for pay, the corporation cannot be held liable on the contract. A partnership arrangement may be made among promoters, when each is liable and all are liable as are partners. In general, a corporation may affirm and enforce its promoter's contracts for its own benefit.

§ 20. *The Inter-Relation of Promoters.* The relations that promoters assume among themselves is a matter of discretion. According to the manner of their association together they will be governed by the law as it applies to individuals or to partnerships, and it is a matter for the promoters to determine which they prefer. Care should be taken by an unexperienced person who undertakes the rôle of promoter that he does not assume any liabilities he does not care to assume through lack of knowledge of what may constitute a partnership agreement.

§ 21. *Aiders and Abettors of a Fraudulent Promoter.* Any one who assists a fraudulent promoter or shares in the proceeds of his fraudulent scheme is liable with the promoter.

§ 22. **Where to Incorporate.**

The corporation laws of the various states are constantly changing, so that it is necessary, in any large or intricate business, to present the question of where to incorporate to a competent corporation lawyer. If the business is small and simple it is usual to procure a charter from the state wherein the business operates and the incorporators live, unless the laws of that state are antagonistic to the purposes of the incorporators. Businesses which are large, with large capital and intricate corporate purposes, usually incorporate under one of the states or territories whose laws are liberalized. Several of the commonwealths may present to a prospective corporation similar advantages in laws, or one may offer some special advantage which it is desirable a particular company should have. In investigating the business corporation acts of a commonwealth under which a company may wish to incorporate, some of the things one may take note of are the policy of the commonwealth toward domestic and foreign corporations; the statutory length of life of corporations; legislative control over private corporations; the corporate purposes permitted in reference to those desired; amount of capitalization and the par value of the stock permitted; the amount of stock required to be subscribed and paid before beginning business; power to issue preferred stock; time within which capital stock must be paid up; assessability of stock; power to create debts; number, residence and qualifications of directors; whether all incorporators may be non-resident; whether stockholders' and directors' meetings must be held in the commonwealth where a charter is procured; whether the principal office may be maintained outside of the commonwealth where the company may be organized; whether the corporation is allowed to hold stock in other corporations; whether stock may be issued legally in exchange for property or services instead of for cash; whether the appraised value by the board of directors of property or services paid for by issuance of stock is conclusive upon the creditors of the corporation who seek, in case of insolvency, to enforce an alleged liability for unpaid stock; ease or difficulty with which the charter may be amended; publicity required as to the condition of a corporation organized under the laws of that state; extent of stockholders' and of directors' liability; whether there is an inheritance tax on stock, and whether imposed on residents or non-residents; ease or difficulty with which the corporation may be dissolved; whether a voting trust may be created; the amount of annual franchise tax, if any, and other taxes; initial expense. It is well, also, at the same time to investigate the laws of all states in which the company expects to do business with reference to the terms and conditions under which foreign corporations may do business in them. Further, it is sometimes important to incorporate in a state where the particular points of advantage of which the incorporating company is availing itself have come up in litigation and have been judicially sustained. Adjudicated laws have more permanence than those whose status has not been determined. The tables of incorporation fees, taxes, etc., in the appendix are self-explanatory and useful.

§ 23. *Special Advantages and Disadvantages in the Corporation Laws of the Liberal Commonwealths.* Arizona. Advantages: stock may be issued for money, property, or services; directors' meetings may be held outside of territory; low organization fees; no annual existence franchise tax. Disadvantages: stockholders' meetings must be held in the territory; laws unadjudicated.

Connecticut. Advantages: stock may be paid for in cash or by property, and judgment of directors is final as to value of property, in absence of fraud; incorporators may be non-resident; no annual franchise tax; corporations may hold stock in other corporations. Disadvantages: stockholders' meetings must be held in the state; no statutory provision for permitting directors to hold meetings outside of state; inheritance tax on stock, except where there is no such tax in the state where decedent lives.

Delaware. Advantages: stockholders' and directors' meetings may be held outside the state, if provision is made in the by-laws; stock may be issued for services rendered, as well as for cash and property; incorporators may be non-resident; corporations may hold stock in other corporations; bondholders may be permitted to vote. Disadvantages: one director must live in Delaware; collateral inheritance tax on stock, which applies to residents and non-residents; annual franchise tax.

District of Columbia. Advantages: very small cost of incorporating; no franchise or inheritance tax. Disadvantages: majority of trustees (correspond to directors) must live in the district; cannot issue stock for service; ten per cent. of capital stock must be paid in before beginning business; annual reports to be filed and published, and shall include amount of capital paid in and amount of existing debts; corporations cannot buy stock in other corporations; corporations organized under this law cannot sue in the federal courts, not being citizens of any state; laws unadjudicated.

Maine. Advantages: stock may be issued for services, property, or cash, and judgment of directors is conclusive as to value in absence of fraud; incorporators and directors may be non-resident; directors' meetings may be held outside of state; corporations may acquire stock in other corporations; low organization fee. Disadvantages: stockholders' meetings must be held in the state; collateral inheritance tax; small existence franchise tax.

Massachusetts. Advantages: incorporators and directors may be non-resident; directors may meet outside of state; stock may be issued for services, property or cash. Disadvantages: stockholders' meetings must be held in the state; no authority to corporations to hold stock in other corporations; detailed annual report required; collateral inheritance tax.

Nevada. Advantages: incorporators and directors may be non-resident; stockholders' and directors' meetings may be held outside of the state; stock may be issued for property, services, or cash, and judgment of directors is conclusive, etc.; no inheritance tax; action of majority of stockholders or directors may be valid without regular meeting; bondholders may be given the right to vote; cumulative voting allowed; no annual franchise tax (except retaliatory tax); low organization fees. Disadvantages: No particularly undesirable provisions.

New Jersey. Advantages: incorporators may be non-resident; stock may be issued for property or cash, and judgment of directors is conclusive, etc.; directors' meetings may be held outside of the state, if by-laws so provide; corporations may hold stock in other corporations; cumulative voting permitted; voting trust may be created; laws well adjudicated. Disadvantages: stockholders' meetings must be held in the state; one director must live in the state; annual franchise tax; collateral inheritance tax (does not apply to non-residents); annual franchise tax.

New York. Advantages: stock may be issued for labor, property, or cash, and judgment of directors is conclusive, etc.; directors' meetings may be held outside of state; corporations may hold stock in other corporations; cumulative voting permitted; voting trust may be created; laws well adjudicated. Disadvantages: stockholders' meetings must be held in the state; one incorporator and one director must reside in the state; one-half of the capital stock must be paid in within a year from incorporation; exacting reports, on request; detailed books of account of business required; direct and cumulative inheritance tax; there may be disadvantages in the income franchise tax in specific instances.

South Dakota. Advantages: stockholders' and directors' meetings may be held outside of the state; stock may be issued for cash, services, or property; no annual existence franchise tax; no inheritance tax; cumulative voting permitted; low incorporation fees. Disadvantages: one-third of the incorporators must reside in the state; corporations have no authority to hold stock in other corporations; detailed record of business transactions and reports of meetings of stockholders and directors, embracing all acts done and ordered to be done, must be kept in corporation office, and be open to inspection of creditors; published annual reports of indebtedness due to and by the corporation, number and amount of dividends paid, and net amount of profits; life of corporation but twenty years.

Virginia. Advantages: incorporators and directors may be non-resident; stock may be issued for cash, services, or property, and judgment of directors is conclusive, etc.; directors' meetings may be held outside of the state; corporations may hold stock in other corporations; cumulative voting allowed; bondholders may be given right to vote; no books required in state. Disadvantages: annual meetings of stockholders must be held in the state; collateral inheritance tax on stock.

West Virginia. Advantages: stockholders' and directors' meetings may be held outside of the state; incorporators and directors may be non-resident; stock may be issued for services, property, or cash, and judgment of directors is conclusive, etc.; corporations may hold stock in other corporations; no books required to be kept in the state; cumulative voting allowed; action of majority of directors may be valid without calling a regular meeting of the board. Disadvantages: ten per cent. of the amount subscribed by each incorporator must be paid in before signing the articles of association; collateral inheritance tax on stock.

New Mexico. Advantages: directors may meet outside of territory; no stockholders' liability for unpaid stock, provided a certificate to that effect is filed with articles and the fact is published as provided—except as to the stock with which the corporation commences business; directors may make assessments on shares till par value shall have been paid; cumulative voting for directors is permitted; corporations may hold stocks and bonds of other corporations; stock may be issued for property purchased, and certain corporations may take stock and bonds in other corporations in payment for labor and materials; "any corporation which shall have more than one kind of stock, may, by so providing in its certificate of incorporation, confer the right to choose the directors of any class [with respect to the time for which they shall serve] upon the stockholders of any class or classes, to the exclusion of the others"; no annual franchise tax, etc. Disadvantages: one director in New Mexico required; stock and transfer books required to be kept in territory; minimum capital stock, $2,000; stockholders' meetings required to be held in registered office in the territory—but may be held by agent through proxies. This act (approved March 15, 1905) was copied in general from the New Jersey laws. Filing fees are about one-half those in New Jersey.

Porto Rico, also, has a liberal incorporation law based on the New Jersey code.

§ 24. Relation to the Creating State of a Corporation Whose Principal Office and Business are Located in a Foreign State.

The legal side of this subject has already been touched upon. A corporation is governed by the laws of the state which creates it, but is subject to the legal restrictions of the states where it does business. In order that the parent state may continue to exercise jurisdiction over its corporations, they are usually obliged to maintain in that state an office where, and a resident agent upon whom, process may be served. Where a resident director is necessary under the law, process may be served on him. In some of the states where there are such requirements as these, certain persons make a business of acting as resident agent or director for domestic corporations whose principal business office and manufacturing or other kind of plant or business is located in a foreign state. Certain "trust companies," organized for this particular service, furnish their place of business as the resident office of such corporations and designate some member of their company as the resident agent or director, charging a yearly fee of about ten dollars. The office maintained in the creating state is the domiciliary office of the corporation in the sense that it is the parental home office, though not any of the actual commercial business of the corporation may be conducted from it. In those parent states where stockholders' meetings are required to be held within the boundaries of the state, stockholders' meetings may be held in the domiciliary office. Otherwise the office may be of no use except as a place designated to the secretary of state where a summons may be served. If a portion of the business of the corporation is transacted in the parent state, the business office of the corporation will serve every purpose, provided there is a resident agent connected with it. Some states require that correct books of account of business transactions and a book containing an up-to-date list of stockholders, their residence, and their number of shares, listed severally, shall be kept at the office in the parent state; that the corporation shall report annually such items as the amount of capital stock and the proportion actually issued; how much was paid in cash, how much otherwise, and in what way; the amount of debts, and of assets; the amount of dividends made, declared, and paid; the amount of capital employed or represented in the state, etc. Such non-resident domestic corporations, organized under the laws of the liberal states, pay an existence franchise tax and may in addition be taxed on the capital represented by property located and business transacted in the state. So far as the capital represented by the business transacted is concerned, however, the liberal states have not generally exercised their right to impose a tax thereon in the case of non-resident domestic business corporations. Railway, insurance, banking, and other transportation and financial corporations are taxed according to special statutes. The expression, "existence" franchise tax, a tax paid to maintain the right of existence, is used to distinguish the tax placed by the parent state on domestic corporations from the business franchise tax, or license tax, placed on foreign corporations by foreign states, by payment of which tax the corporations maintain the right to do business in the foreign states.

§ 25. A Corporation's Relation to Foreign States.

A foreign state is any state other than the one under whose laws a corporation is formed. Since a corporation can have no legal existence outside the boundaries of the state in which it was created, it can exercise none of its business functions or privileges in any other states except through the courtesy and consent of the other states. The "rule of comity" is the prevailing courteous and consenting recognition of corporations foreign to the state in which they are exercising a right to do business. The rule of comity is part of the common law and is binding except where modified by the statutory law of the several states. Subject to the limitations imposed by the national constitution, a state may prescribe any conditions upon which a foreign corporation may do business within its territory. Most of the states have put a statutory limitation on this rule for the protection of their citizens from the acts of irresponsible foreign corporations and for the purpose of raising revenue for granting the right to do business. The kind of business referred to is the commercial business out of which a corporation makes its profit and not those acts which the stockholders or corporators perform in creating or maintaining the corporate existence. Where a company maintains an agency or warehouse and sells goods in a foreign state, it is considered as doing business in that state. Part of the corporate assets are represented in the state, materially in the case of manufacturing and mercantile corporations, and by business transacted and protected in the case of insurance and other financial companies. The mere taking orders for goods by a traveling salesman, or isolated and largely fortuitous transactions of business without the intention of continuing business, do not constitute "doing business" in the legal sense. Where, however, a traveling salesman carries articles which he sells direct, without referring an order to the home office to be filled, that act comes within the meaning of "doing business." Sometimes the business is such that a state requires that the foreign corporation shall maintain an office in the state and provide an agent or agents upon whom process may be served. The object of requiring a resident agent is to bring the corporation within the jurisdiction of the state in which it is seeking to do business, so that it may sue and be sued there. The object of requiring an office is that a place may be furnished where the agent may be found and where a summons may be served on him. These provisions facilitate legal actions against a foreign corporation, which might otherwise be able to make the service of process extremely difficult. It is provided that corporations may have license to do business upon compliance with certain conditions. The laws of the states are not uniform in their treatment of foreign corporations. Progressive legislation is in the direction of imposing on foreign corporations the same restraints and qualifications for business that apply to domestic corporations. Justice to domestic corporations demands this. Among the qualifications necessary in one or more states are that a certified copy of the articles of incorporation and the by-laws, and a list of names and residences of the officers and directors, the location of the domiciliary or principal office, the date of the annual meeting and meeting for election of officers and directors, shall be filed with the secretary of state, or other proper state or county officer; that a statement shall be made of the capital stock paid in in cash, and of that otherwise paid in, and how it was paid, and the capital represented in the state by corporate property located and by business transacted in the state; that an annual report shall be made which shall include the amount of debts, or an amount which they do not exceed, the amount of assets, or an amount which they at least equal, and the amount of dividends declared or paid; that any substantial changes in any of the foregoing shall be reported to the secretary of state; that the books of account of business transacted by the corporation shall be kept at the state office or be forthcoming from it (seldom); that a stock-book, with complete information as to stockholders and stock, must be kept at the corporation's office or at the office of a transfer agent in the state, and that the book shall be open to inspection by any stockholder, judgment creditor, or authorized officer of the law; that a resident agent shall be appointed and that an authenticated copy of his appointment and of his acceptance and a certificate of the location of his residence or office shall be filed with the secretary of state or other proper officer; that certain sundry fees or other qualifying fees shall be paid, and also annual taxes on the amount of corporate property or capital represented by corporate property located and business transacted in the state, or on some other basis; that a corporation cannot transact business in the state nor sue without having obtained a certificate of authority to do business. Some states have passed what are known as retaliatory statutes, which provide that foreign corporations seeking to do business in the territory of those states shall pay the same fees and taxes and comply with the same conditions that the domestic corporations of those states would be required to meet in the domiciliary states (the states under whose laws corporations are created) of those foreign corporations. Some states provide that a foreign corporation shall appoint in writing their secretaries of state or commissioners of corporations attorneys upon whom process may be served, dispensing with the necessity of any other agent. The fractional proportion of capital represented by property located in a foreign state and by the business transacted there, where that is the basis on which incorporation fees are based, may be computed by taking the business in that state in a given period, plus the property located therein, as a numerator, and the entire business of the company for the same period plus the entire property, as a denominator. The fraction represents the proportion of the capital stock on which incorporation fees or taxes must be paid in that state. If all the business of a company is transacted in a foreign state, the entire capital stock will form the basis for charging fees.

§ 26. **Capitalization: Definition.**

(1) In a general sense, the capitalization of a corporation means the par, or face, value of all the stocks, common and preferred, which it has been authorized to issue, and of the bonds which are issuable; that is, all the apparent funding resources of the corporation. (2) But in a stricter sense, it is all the actual capital realized from the sale of stocks and bonds, the capital with which the corporation equips itself for business and which it uses in operating. Thus, a company capitalized for $1,000,000 may sell all its securities, stocks and bonds, at such prices that the average price will be but sixty cents on the dollar of nominal capitalization. It will thus have for equipping and operating $600,000 instead of $1,000,000. Or, it may sell $800,000 of securities at par and keep $200,000 of stock unissued, or turn it into treasury stock. It still has a nominal capi-

talization of $1,000,000 but an actual capital of only $800,000. (3) In the statutory sense, when referring to the provision for a certain amount of capitalization in the articles of association, it means the amount of stock authorized to be issued, all of which amount may or may not be subscribed. Bonds are not mentioned in articles of association, except when the amount of bonded indebtedness is limited by statute. (4) Or capitalization is all the actual property of the corporation. This is the definition used in tax statutes. (5) In yet another sense it is the par value of all the stocks and bonds issued, which is the amount of accountability acknowledged by a corporation. This is the definition generally accepted in financial practice. (6) In a legal sense, however, the bonds are not included in the capitalization, but are regarded in their true light of debt owing by the corporation. Capitalization, in the customary judicial interpretation, represents the joint and several interests of the stockholders in the corporation, and so far it is synonymous with capital stock, and is, when the corporation is new and without losses or profits, the amount paid in, or subscribed to be paid in, by the subscribers to stock, either to forward the corporate business or to satisfy creditors of the corporation. When the corporation has been doing business for some time, the term is sometimes modified to mean the sums paid in, or to be paid in by subscribers, with the addition of all profits and gains and the subtraction of all losses and depreciations. Then the term is synonymous with "capital." In discussing corporate finance, the word will be used in the fifth sense, while in referring to the statutory provision of capital stock in the articles of association, the word will be used in the third sense.

§ 27. Determining the Amount of Capitalization.

The amount of capitalization of a corporation is one of the chief things to be determined precedent to filing a charter. When a professional promoter organizes a corporation, he has his plans so carefully made that he knows exactly what the capitalization should be. Unprofessional organizers should know as much and should have their knowledge based on reliable figures. It is necessary to the later financial stability of the corporation.

In the first place, unless the stock and bonds of a corporation are sold at a premium, the par value of all the securities represented in the total capitalization must equal the amount of money required to be invested in the real estate and plant of the corporation, and part, if not all, of the running capital. Usually part of the running capital is borrowed from a bank, unless bonds can be sold which bear a lower rate of interest than would be necessary to pay the bank. When it is possible to provide part of the running capital through the sale of commercial paper, as may usually be done, it will often be found profitable to do so. Thomas L. Greene says: "With few exceptions, where firms [or companies] have command of practically unlimited sums of their own, business success is possible only through the aid of the money lender. Let us suppose, for illustration, that a firm employs a capital of $1,000,000 in its business, one half of which it borrows from the banks on its commercial paper at six per cent. interest. We will suppose also that the firm 'turns its capital over' six times a year, which is only another way of saying that its volume of annual sales is six times the capital. Assuming that our firm is enabled to earn two per cent. net upon its sales, the resulting profits, $120,000, amount to twelve per cent. upon the capital employed. As under our assumption the firm is paying six per cent. on the amount borrowed, or $30,000 yearly, it follows that the actual earnings upon the firm's own capital are $90,000, or eighteen per cent., a handsome return made possibly only through the borrowing of money which can be used to extend the volume of trade and to earn something for the firm over and above the percentum of interest paid. The actual profits earned under this system vary in different trades, though usually the volume of business is in inverse proportion to the percentage of profit on the annual sales. Whatever sum we select or whatever earnings we assume, the principle underlying the illustration is the same. Of course a part of the capital of such firm or corporation in business must be invested in credits granted to customers and in some form of merchandise in stock." The amount the company can borrow is the amount of its credit, based on the value of the company's property at forced sale, the value of the property in which the money borrowed is to be invested, and the business reputation of the proprietors and managers of the company. "To borrow one-half of one's necessary capital, in money or goods, is common," says Mr. Greene. The amount of credit a company deserves is the problem of commercial banking. Corporations just starting in business cannot usually command as large credit as old established businesses. The most conservative banks give preference in discounts to paper based on actual commercial transactions, over that secured by stationary capital. The most important function of a commercial bank is, by the use of the capital it controls, "to bridge over the periods of credit which necessarily intervene between production and consumption, in such a manner as to give back to each producer, or middleman, as quickly as possible, the capital invested by him in such products in order that he may use it over again in new production and new purchases." From these suggestions one may guess approximately the amount of money a company should be able to borrow on commercial paper, taking into consideration local financial conditions. The commercial paper of established concerns is frequently floated over the country among banks through the agency of brokers in commercial paper.

The proper amount of capitalization, in the sense in which it includes bonds, is determined with reference to the net earning capacity of the future corporation. The average per cent. of net earnings of a period of years, calculated from the experience of other companies in the same line of business, but with reference to its own output, may be taken as a basis, thus allowing for years of low prices or slack demand; or a more conservative estimate of earnings may be made altogether on the basis of the off years in price or demand, thus putting the company in a position where it can meet its interest obligations without question. If the company to be organized has special advantages over others in the same line of manufacture, advantages which will increase the average of its net earnings, these also should be taken into account at a conservative figure. Likewise, disadvantages, if there are any, should be estimated and deducted. After calculating the amount of net profit, provision should be made out of it for a reserve fund for the purpose of extending, repairing, and improving the equipment of the company, for investment in high class bonds which can be pledged as collateral for the raising of funds when money is scarce, or for use in forwarding the "integrating" process by buying into companies which produce materials to be used by this company, or in obtaining favorable connections for controlling trade by obtaining interests in other companies of the same kind. A careful business policy would require in a manufacturing concern a reserve of from forty to fifty per cent. of the net profits. An average annual reserve of at least fifty per cent. of the net profits for use in one or all these ways will put a company on a much safer competitive footing and thereby assure a much greater stability to the investment value of its stock. So, in figuring the capitalization, and particularly in connection with the interest on bonds and the dividends on cumulative preferred stock, not only the net profits should be considered, but also the policy with respect to reserves. The capitalization, therefore, should be placed at whatever figure the net profits, minus the reserve, will permit,—figuring the amount of interest to be paid on bonds and the amount of dividends to be paid on preferred stock and estimating a fair dividend for the common stock. Then, as the earnings increase, the capitalization may be increased from time to time, or the bonded indebtedness may be increased. As to the amount of common stock, particular consideration should be taken of the fluctuations in profits of the business, so that the issue of common stock shall be conservative. It is better that large dividends shall be paid in prosperous years on a conservative common issue than that the company shall be so highly capitalized that in poor years the common shall receive little or no dividends. The end sought in capitalizing should be to make the market value of the stocks and bonds correspond as nearly as may be with their par value. The worth of the corporation, measured by its earning capacity, should correspond to the combined par value of its stocks and bonds. This is the ideal and comparatively practicable condition.* Where this is not the case, a company is either over-capitalized or under-capitalized. Where the combined par value of all the stocks and bonds of a corporation is greater than their market value based on profits, the corporation is over-capitalized. Where the value of a corporation's assets exceeds the par value of its securities, the corporation is under-capitalized. There are decided disadvantages attached to an extreme case of either condition.

---

* There seems to be a tendency on the part of the public to limit the amount of capital of a corporation that is justly entitled to profits. Professor Emory Johnson, in American Railway Transportation, points out that the earning capacity of a corporation cannot equitably or logically be made the sole criterion of value. To determine how much capital is justly entitled to profits (a social question the genesis and development of which will not be here discussed), Professor Johnson says the cost of reproduction of the corporate property and the earning capacity must be considered together. "Definite rules for applying this method were worked out by a state tax commission in Michigan in 1900. In determining the value of the physical properties of the railroad—its roadbed, rolling stock, terminals, etc.—the cost of duplication was made the basis of valuation. The railroad company's franchise, the special concessions granted to it by public authority, and the special commercial opportunities upon which its business depended—that is to say, all the non-physical or immaterial elements of its property—were valued in accordance with their earning capacity. To ascertain the value attributed to these non-physical properties a method suggested by Professor Henry C. Adams was followed. According to the method devised by Professor Adams, the value of these immaterial properties was determined (1) by deducting aggregate expenses of operation from gross earnings and adding the income from corporate investments; (2) by deducting from the total income thus obtained an amount properly chargeable to capital—that is, a certain per cent. on the appraised value of the physical properties—rents paid for the lease of property operated, and permanent improvements charged directly to income; (3) by capitalizing the remainder at a certain rate of interest. This method of valuation gives a basis for capitalization that seems to be equitable to all parties in interest—the public, the investor and the company." There are probably conservative corporations that will desire, in capitalizing, to take into consideration this tendency on the part of the public to hold corporations to more strict accountability for the value of property on the basis of earnings when considering the amount to be paid in taxes. Deducting the larger taxes would, of course, leave a smaller net profit from which to pay dividends and interest and would tend to reduce the capitalization.

In over-capitalization the difference between the face and market values of a company's securities represents the amount of over-capitalization, or "water." Extreme over-capitalization is a strong invitation to competition, if the over-capitalized company can pay dividends on its watered stock. It is an announcement to those having capital to invest that there is "big" money in the business and that another company capitalized at a proper figure can earn a large return on the investment. Moreover, since the over-capitalized company has the interest on bonds and dividends on preferred stock to meet, it must maintain prices and will thus insure a greater steadiness in the market so far as its particular influence extends. Its competitors, of course, share in the advantages of stable prices. Besides, economic conditions may be such in certain years that an over-capitalized company cannot meet its interest and dividend charges, and then it is in danger of a receivership and, perhaps, of dissolution. But, on the other hand, in order that the ideal condition may be approximated without the constant change and expense incident to recapitalization, in starting a company prospective increase in earning capacity must be taken into account, and a reasonable present over-capitalization be provided on the basis of the probable larger net earnings of the next few years in order to keep the securities of the company from selling at a premium proportionate to that increase in earnings.

In general, as was said, it is desirable that an investment stock remain near par. Such a stock is better for investment purposes than one that commands a large premium in the market. There is always the possibility of unforeseen vicissitudes, such as competition, waning or greatly variable demand, and unfavorable legislation, which affect the profits of a company and cause the stock to fluctuate greatly in market value. The greatest degree of fluctuation naturally takes place in those stocks which command the greatest premium on the basis of earnings, or in those stocks which are held in so few hands that the "outsiders," small holders and speculators, may suspect manipulation on the part of the "insiders," those who hold the controlling interest in the capital stock and thereby control prices, and throw their stock on the market and perhaps cause a market panic with its not unusual collapse in prices. A stock which is kept near par will usually be more widely distributed than one which commands a large premium. The reason is that a stock that commands a premium of several hundred per cent. is not so readily marketable. If a person has $50,000 to invest, he will prefer to buy 500 shares of a stock at par, or a proportional number of shares at a little more than par, than to pay a premium of four hundred per cent., making a price of five hundred, and get only one hundred shares. He can get stocks and bonds of satisfactory security which, for one reason or another, promise good dividends or pay good interest and which offer opportunity for increase in value without being subjected to so great and sudden changes in value as occur in the market because of rumors, or of the other vicissitudes mentioned. He buys these stocks to hold, not for speculation. Such stocks widely distributed and firmly held protect the corporation not only in the way of maintaining a stable price for the stock, but also in enlisting the sympathy and active support of the stockholders in case unfavorable legislation is proposed, or there is other threatening calamity. The consideration with respect to danger from legislation applies most particularly to corporations that operate under public franchises. It may be asserted, therefore, in view of a desirability for wide distribution, that the price of a stock should not rise far above the point where it will stimulate the greatest demand. The point to which it may rise above the point mentioned is governed by this consideration: a company desires to realize the largest returns possible from its securities when it places them on the market. Therefore, it will not seek, through the price of its stock, to create the greatest demand so much as it will endeavor to create a demand that will absorb all the stock and bond issue at a price that will realize the largest income for itself, and at the same time will effect a reasonable distribution of the stock. This principle applies as much to a speculative stock as to a more distinctly investment stock, because the higher the price the more money must be put up to carry it, while the demand is relatively less. Also, while the fluctuations are much wider in the high-priced stocks when they occur, they are not so frequent, and therefore they afford speculators fewer opportunities for gain. Year in and out the most active stocks on the exchanges are those of moderate price, which fluctuate within small bounds. It follows from the fact of lesser demand for high priced stocks that an owner, in selling them, gets less in proportion than had he put his money in lower priced stocks. So the value of the stocks near par is greater to their holder than are the high priced stocks. They are also more valuable if he wishes to borrow money on them, both because of the larger proportionate value and because, on account of their narrower fluctuation, the necessary margin between collateral and the amount loaned is lessened. From all standpoints of financial economy, therefore, the desirability of a moderate priced stock is apparent. In providing the original capitalization, and in making subsequent alterations of the capitalization, these facts should be kept in mind. They apply in a general way to all large corporations which have in view a permanent and growing business.

§ 28. More Things in Regard to Stocks and Bonds to be Considered before Capitalizing.

A bond is a form of a promissory note, differing from a promissory note only in that each bond is one of a series of bonds, all of which are alike in the amount of payment promised and in the language defining the conditions governing the issue. Usually the bond is a more formal species of commercial paper, bearing a seal and the signatures of witnesses as well as the signatures of certain officers of a company. The security of a bond may be entirely personal, or it may give the purchaser a lien on property. Nearly all corporate bonds are secured, and the common form of security is a mortgage on the property of the company issuing them.

The purchase of a corporate bond conveys no proprietary interest in a company, the bond being merely a credit obligation of the company. There may be first, second and third mortgage bonds issued on a property, and they are payable and collectible as are other forms of paper secured by mortgage, but with variation from other forms in legal procedure for collection. All stock conveys a proprietary interest in a company, but the stock is unsecured and can command only its proportion of the dividends declared out of the profits of a company after the satisfaction of credit obligations. Stock is an evidence of proportionate interest, while a bond is a contract binding the company issuing it to pay a specific amount of money. The interest on bonds must be paid when due, or the company's business may be closed; but the directors may delay indefinitely the payment of dividends on preferred or common stock without the owners having recourse, unless there is fraud. Common stock commands dividends and, sometimes, the exercise of proprietary corporate powers, without preference. Preferred stock commands a given dividend before any dividends are paid on common stock, and, as a rule, is also preferred in the matter of distribution of assets on the dissolution of a company. In corporate finance bonds are generally issued to provide permanent capital at a low rate of interest. Preferred stock is provided because it is often more readily marketable than common stock, or it may be issued to meet some debt of the company, when it is inconvenient or impossible to otherwise meet the debt, or to exchange for property to be used by the company. Also, if the expected profits are large, a large part of the capital can be provided by the sale of preferred stock, and the common stockholders will get the benefit of other profits above the dividend paid to the holders of preferred stock, unless there is a provision that common and preferred stockholders shall share in all dividends above a certain per cent. prescribed for each. Preferred stock is often issued to an amount which represents the value of the property of a company, and common to such an amount as the expected net earnings minus the amount of the preferred dividend claims will justify.

As a rule, a large issue of bonds lessens the market value of preferred and common stock, and a large issue of preferred stock has the same effect on the common stock, unless the value of the company's property is equal to the par value of both combined, or there is certainty that the profits will be so large that the common stock will receive a large dividend. Particularly is this true of cumulative preferred stock, whose dividends, if not paid each year, pile up as a charge against the profits, so that the total unpaid dividends for the several years must be paid before the common stock can receive anything. In liquidation, these unpaid dividends add so much more to the par value of the preferred stock as a claim against the assets of the company before the common stock comes in for a share in the distribution. The value of common stock can scarcely receive a severer blow than through the action of a board of directors in passing (that is, not paying) a dividend on cumulative preferred stock. The principal danger from a large issue of bonds is that, in a time of business depression, the company may not be able to meet the interest on the bonds and may be forced into liquidation. The only way to avoid this danger is for the stockholders themselves to subscribe for the bond issue. In a time of crisis in the business they will not enforce their bond rights against their stock interests. However, in cases where the stockholders would buy the bonds, it would usually be as well to increase and distribute among the stockholders capital stock to the amount of the bond issue, and leave out the bonds altogether, unless only a part of the stockholders are willing to take bonds. The security of a bond issue is the minimum profit of the corporation after operating expenses are paid, and no issue of bonds should ever be made the size of which is such that this profit will not meet the interest requirements. The following of this principle adds safety to the company, and it will also insure a good price for the bonds. It is not good for a corporation to have to sell its bonds at a large discount, and careful buyers must be shown the basis of value for the price they are paying. As a rule the nearer a company can come to limiting the issue of its bonds to an amount equaling the estimated value of its property at a forced sale, the better for the company, so far as concerns the price it can get for the bond issue. The rate of interest on the bonds should be high enough—about the current market rate—so that it will not put the issue at a disadvantage with reference to other bond issues of equal safety which are on the market, for then the bonds will command par both because of their safety and their interest returns. Since the face value of bonds must be paid at maturity, a sale of bonds at less than par is discounting the future by the difference between the sale price and the par of the bonds. The principal advantage of bonds to the stockholder is similar to that of preferred stock,—that the interest paid on them is lower than the customary dividends on stocks, so that the stockholders receive a larger share of the profits than if an amount of the stock equal to the bond issue had been sold. The prevailing interest on bonds is from 4 to 6 per cent., while the dividend on preferred stock is usually 6 or 7 per cent. Common stock may receive any dividend the profits permit and the directors may see fit to declare. In industrial concerns, where there are bonds or preferred shares, profits should be such that the common stock will receive from 8 to 12 per cent., owing to the disadvantages under which it is placed, especially if it is sold at par. Sometimes a company does not expect to realize much from the sale of common stock, and gives free with a certain number of preferred shares, or with a bond, several shares of common stock as an inducement to buy. As the preferred stock in this case usually represents in amount the value of the property and other assets of the corporation, the common stock represents only a part of the expected surplus earnings above the dividend or interest requirements. If it is marketed it may bring 30 or 40 cents, or some other low price, according to its prospects for dividends, and it is not expected that it will receive a large dividend until the profits are large enough to bring its market value near or to par. When the profits grow large enough to pay high dividends, they are the cause, and the higher value of the common stock is the effect, while in a case where par value was paid for common stock it should be the cause, in a proper capitalization, of a comparatively high dividend, if there are the preferred shares or bonds mentioned. The principal compensation in holding common stock is the larger dividend it will likely receive over the preferred shares and over the interest on bonds. Another advantage that may be mentioned here is that it has a proportional interest in the assets of the company to the extent of their full value, while the preferred stock is usually debarred from any interest in the assets beyond its par or face value and arrearages of cumulative dividends. If all the stock of an industrial corporation is common stock, and there are no bonds, or only a small issue of bonds, 6 or 8 per cent. of dividends is a fair return if the value of the assets of the company is equal in amount to the price paid for the common stock issue, or greater than that price.

As has been said, the stockholders are owners of a corporation, and the bondholders are creditors. The latter can demand at the time of maturity of the bonds a certain amount named in the bond as its face value, and no more, and they have a definite claim to the interest named in the bond, and no more. If stock were sold instead of bonds, the additional stockholders would share in all the profits. But as a company can usually make more on the money borrowed through a bond issue than it has to pay in interest, the lesser number of stockholders get all the advantage of the earnings above the interest. However, as the first consideration should be the preservation of the solvency of the company, the degree of variation in the business of the company must be reckoned with in making a bond issue. If the business is uniform in amount and profit from year to year, the issue of bonds is a comparatively safe thing for the company; but if the business or profits are subject to wide variation, the issue of preferred stock is the safer plan. If it is intended to pay bonds at their maturity, instead of refunding the debt the bonds represent by the issue of more bonds, the provision of a sinking fund must enter into the calculation. For this purpose a definite part of the yearly profits must be laid aside to meet the payment of the bond principal. Of course, this will take just so much from the profits used for interest, dividends and prudential expenses, such as a reserve. Instead of paying the principal, large corporations usually issue new bonds and exchange them for the old, or sell the new to new purchasers and use the money to pay off the old bonds, thus making the bondholders permanent creditors of the company. On account of certain economic objections to sinking funds, this is preferable in all cases of staple business, except in those where the productive assets are gradually depleted through years of operation or otherwise. For instance, the products of a mine will give out after a time, and if bonds have been issued a sinking fund must have been created to retire them. In continuous businesses the money that would be used for a sinking fund had better be employed in increasing their earning capacity.

A further consideration with reference to the issue of bonds is this: A bond issue, as was said, is an indebtedness. In taxing corporations many states permit corporations to deduct outstanding indebtedness from their taxable property in determining the amount on which the corporations shall be taxed. Therefore some companies save taxes and state fees by capitalizing for a smaller amount than must be used in their business and issuing bonds to make up the rest.

§ 29. Capitalizing at Less Than Real Value.

There frequently arise circumstances where the corporate form of organization is desirable in a business for only a few of the advantages which it offers. It may be desired to make a division and distribution of interests among only the few persons interested and secure for them freedom from partnership liabilities. If their company were capitalized at its true value, the attention of the public might be called to the profitableness of the business, and competition might be aroused. By capitalizing at less than real value the state fees and taxes are lower, while the practical objects of incorporation are accomplished, and little attention is drawn to the fact of incorporation. The shares in cases of this kind are, of course, worth several times their par value.

§ 30. PLACING STOCKS AND BONDS.

In companies organized by a promoter the disposal of stock is usually attended to by him. But frequently when a corporation is organized, and the promoter's work is considered to be done, all the stock has not been subscribed and the corporators expect to sell the balance to provide funds for more extensive operation, etc. It is always better to have enough stock subscribed before incorporating to run the business, for stock cannot always be sold easily or advantageously. In small concerns, new ones or old ones reorganized, where there is a balance of unsubscribed stock, the sale of it depends usually upon the corporators or such unprofessional salesmen as they may be able to employ. Conservative professional stock salesmen, such as financial bankers and stock-brokers, do not usually take issues of stock for sale where the concern is small and new and its earning capacity uncertain or wholly speculative. In the case of large or old companies, which have increased their capitalization on a proper basis, or in reorganized companies where the stock has acquired an estimable value, or in large companies where the profits are calculable with reasonable certainty, stock and bond dealers, financial bankers—sometimes private, sometimes national,—and trust companies will frequently act as fiscal agents and take stock for sale on commission, or will underwrite it. When stock is sold for a commission the commission is a matter of arrangement between the corporation and the selling agent, and usually depends on the degree of ease with which the stock may be marketed, which depends largely on the financial reputation of the corporators or the corporation and on the prospective value of the stock. When a well paying common or preferred stock is backed by assets which are salable at a figure which will protect the stock at par after prior claims against the assets are deducted, the commission may run anywhere from 4 to 10 per cent. When stocks are underwritten, the profit required by the underwriter depends usually on the actual and certain value of the stock, though it sometimes depends mostly on the underwriter's certainty that he will be able to dispose of the stock within the time specified in the agreement. The underwriting of stocks (and this applies also to bonds) consists in subscribing for an entire issue or balance of an issue at a certain price, to be paid within a certain time, say six or nine months. The object of the underwriter is to sell the securities within that time at a price in excess of what is to be paid. If all the securities are not sold the underwriter must pay for what is left on his hands when the time is up. The underwriter does not expect to use much of his money in the transaction, as he will, in paying his own debt, use the money paid by the subscribers to him. Sometimes a portion of the amount subscribed, usually from 10 to 30 per cent. of it, may be made in the agreement subject to call, and, if called, it is paid. For assuming the risk, and furnishing the small amount called, if any, he will have as his profit the difference between the underwriting price and the sale price to the public. Underwriting on a large scale is done by such banking concerns as J. P. Morgan & Co., the National City Bank, the Bank of Commerce and the First National Bank, of New York. They are really wholesale bond dealers. In unusually large underwriting transactions a syndicate of bankers is usually formed to share the risks and the profits, and a syndicate manager is chosen from among the banks interested to conduct the transaction. The syndicate manager receives an extra share of the profit for the extra services performed. The syndicate agreement simply recites that the several banks agree to purchase at the given price and within the given time the amount of stocks or bonds set opposite their respective names, and to furnish on call a certain amount of money to pay for the stock subscribed. When the transaction is finished the syndicate manager sends each member of the syndicate a check for the amount which was called, and the share of profits which belongs to that member. If all the securities are not sold, and the members must redeem their pledge to take part of their subscription, the syndicate manager so notifies the members and they furnish in proportion to their subscriptions the funds to purchase the securities still on hand. The profits in underwriting vary greatly, and increase in proportion as the securities are of uncertain value. Railroad bonds are more stable and certain in value than those of the industrial trusts. A good three-and-a-half per cent. railroad bond which will probably sell at about 105 will be underwritten at about 98. An industrial bond that sells at par will command to the underwriter a greater per cent. by several points. The preferred stock of an industrial trust which will sell to the public at about 80 cents will be underwritten at from 60 to 65 cents. The underwriter is frequently never the owner of the shares underwritten; he furnishes funds for organizing, equipping or operating the corporation, and undertakes to secure himself and make a profit by selling the securities.

A financial journal says the following regarding the means of distributing bonds:

"The machinery that distributes over the world the steady stream of bonds created by American corporations is little understood outside of Wall street itself. Only the result is noted, namely, that some companies can distribute these securities broadcast with apparent ease, while other companies, apparently of equal strength, appear unable to accomplish the same result without a long period of 'digestion.'

"Roughly, there are three methods whereby a company can sell its bonds. One is to sell direct to the public through the stock exchange, or by actual canvass. Only new companies use the latter means, and bonds hawked around the country in this way are generally of low repute. The sale through the stock exchange is now generally carried out by the fiscal agents of the company, and is unusual except for the sale of small lots of well-known and active bonds.

"A variation of this method is found in the case of Rock Island, for instance. The old stockholders of the railway company were offered $100 in 4 per cent. bonds, $70 in preferred stock, and $100 in Rock Island common. The result is well known. The new bonds went into the hands of a stockholding public, which had them at no stated price, and which sold them freely when the decline came. This method is now generally regarded as dangerous. It avoids the payment of commissions, and thereby makes enemies of the kind who can do most harm.

"The first method of distribution is less popular year by year. It has come to be recognized that commissions must be paid to bankers. In return the bankers loan their credit to the bonds, placing them with their own public following. The commission is, to all intents, the price of the bankers' credit. The commission, therefore, varies. If the company is weak and the banker strong, the commission is very heavy. If the company is strong and the banker weak, the latter is glad to take the bonds at a very slight profit.

"The second general method is to sell the bonds in a block to one of the great underwriters. Pennsylvania, Baltimore & Ohio, Union Pacific, and many others sell direct to Kuhn, Loeb & Co., get the money, and thereafter take only an indirect interest in the bonds. Rock Island sells to Speyer & Co., 'Frisco to Blair & Co. and others, New York Central, Lake Shore, Southern Railway, Erie and others to J. P. Morgan & Co. The price at which these railroads sell their bonds to the underwriters is not generally known. It is taken to be a private matter, but it often leaks out.

"The third method, not uncommon, is to sell the bonds to the big retail bond houses, who distribute them to a wide and wealthy public through advertising and through correspondence. Each of these houses has its clientele. Some are strong in New York, others in Canada, others in the South, etc. They are more or less specialists, and get to be known for a particular grade of bonds or stocks.

"These two last methods, of course, overlap greatly. Harvey Fisk & Sons, for instance, known for years as a big retail bond house of wide clientele, frequently underwrite whole issues of new securities, as in the case of the Electrical Securities collaterals, recently brought out. Similarly, Fisk & Robinson took the whole issue of the new Buffalo & Susquehanna Railway 4 1-2s.

J. P. Morgan & Co., Kuhn, Loeb & Co. and Speyer & Co. generally participate to a greater or less extent in any extensive new bond issue, because their clientele demands it, even though these firms may not be the original underwriters.

"Another phase of the underwriting industry is the 'underwriter's option.' An underwriting firm takes a block of bonds at, say, 97, payable only as resold. The firm then offers the bonds at any price above 97, and pays over to the company 97 for the amount of bonds sold. In this class of underwriting the company generally co-operates strongly with the bond house. A great deal of this class of business is carried on. Bond salesmen for big houses generally carry to outlying cities a commission to sell, at stated price, the bonds of a dozen or more railroads, none of whose bonds are actually owned by the house at the time. The bonds may be called at a given figure within a certain time.

"It is a question how much of this business is done by the big underwriters. Doubtless, if the truth were known, a great many of the sales of big blocks of bonds are of this nature, but they are not generally published as such.

"The reputation of the underwriters is a thing very jealously guarded. A foreign clientele is one of the most valuable assets possible, and a clear record in respect to coupons is a matter of high pride. When a house can say that none of the bonds it has sold to the public has ever defaulted it can make a boast to be proud of.

"Again, some houses have a reputation among the retail dealers for floating bonds at the top price, while others are considered more liberal. Bonds brought out by one house are considered bargains when issued, while bonds brought out by a near neighbor are generally expected to be better bargains in six months or so. This is a matter of local reputation. The bond dealers in the street know all these little things, but the savings banks, the country at large and the foreigners are not so keen."

§ 30a. FINANCIAL BANKING AND TRUST ORGANIZATION.

The organization of mammoth business corporations, many of which are trusts or are monopolistic in their nature, has given rise to an extended and differentiated use of banking functions. To illustrate the formation of a trust and the operation of financial banking, the following is taken from an address delivered by Thomas F. Woodlock, an editor of The Wall Street Journal, to a bankers' convention:

"The function of commercial banking is to facilitate the production, transportation and distribution of commodities of general use through all the stages that lie between the original producer and the ultimate consumer. In New York, and more particularly in Wall street, banks perform a different function. They conduct a financial banking business, which does for property other than commodities what commercial banking does for commodities. Financial banking facilitates the transportation of property through all its metamorphoses from the hands of one owner to those of another. Financial banks merchandise credit just as commercial banks do, but, of course, a different set of problems arise.

"This distinction between commercial and financial banking is very simple. So is the principle of finance itself. If you come to think of it, the art of finance consists in the transfer of property from hand to hand, which, in the generality of cases, means the supplying of investments and the collection of capital for investment. As conducted nowadays, it means, in fact, the manufacture or collection of securities and their sale to investors. By investors I mean those who purchase to hold for investment, as contrasted with those who are traders, or speculators, because they purchase for quick re-sales. You are, of course, entirely familiar with the nature of securities, which is, in the main, twofold. Securities are either evidence of title or equity, or evidences of debt. I need not waste time in describing them in detail further than to remind you that they exist in every shape, manner and form, and are of every grade of value. Their variety is almost infinite.

UNIVERSITY
OF
CALIFORNIA

"In order to explain the principal operations of financial banking, I shall take a hypothetical case of the very simplest form. Let us suppose a bank starting business with a capital of $1,000,000 and a surplus paid in of $1,000,000. The bank is able to secure 100 depositors, each of whom has $100,000, making a total of $10,000,000 on deposit account. It loans to ninety individual manufacturers of cigars the sum of $100,000 each for use in their business, so that its loans amount to $9,000,000. The bank's condition is then expressed in the following statement of assets and liabilities:

ASSETS.

Loans	$9,000,000
Cash in vault	3,000,000
Total	$12,000,000

LIABILITIES.

Deposit account	$10,000,000
Capital and surplus	2,000,000
Total	$12,000,000

"The bank is doing a commercial business, as it is lending money to cigar manufacturers on commercial paper or notes. Some of this money it is lending on call, and some on time, so that it may be able to meet any demands that its depositors may make upon it. Among the directors of the bank is a financier, or promoter, who is cognizant of the business of the bank. The idea occurs to him that a trust can be formed of the cigar manufacturers, from which a promoter's profit can be extracted. He sends his agents to investigate the condition of the various manufacturers' plants, and the information he secures confirms his original idea. He thereupon secures an option from each of the manufacturers to purchase his business at a certain price. The price is fixed upon such a basis that the borrowings of the manufacturers at the bank are to be paid off, and each manufacturer is to have stock in the new trust. The financier proposes a capitalization of $10,000,000 bonds, $10,000,000 preferred and $10,000,000 common stock, and it is understood that the bonds are to be sold to him at 90 cents on the dollar —thus providing the $9,000,000 necessary to pay off the borrowings at the bank, and he has further the option of buying the stocks of the new trust at 60 cents on the dollar for the preferred stock and at 30 cents on the dollar for the common stock. He is bound, therefore, to provide $9,000,000 cash, for which he gets $10,000,000 bonds, and he has the right of putting up $9,000,000 more cash to get all the stocks of the company to be formed.

"He organizes a syndicate to take the bonds at 90, agreeing with the syndicate that they shall ultimately be sold to the public at par, thus netting a profit of $1,000,000 on the $10,000,000 bonds. Of this $1,000,000 he has to have $250,000 for himself, representing the compensation for his initial risk and trouble, the rest being divided pro rata among the members of the syndicate. The syndicate is formed. On a certain day payment is to be made to the cigar manufacturers, who will receive $10,000,000 preferred stock and $10,000,000 common stock in the new company, and have their loan at the bank, amounting to $9,000,000, paid off. On paying off these loans the syndicate will have $10,000,000 bonds of the new company. Inasmuch as the bank is going to be paid its $9,000,000 of commercial borrowings, it has $9,000,000 to loan the syndicate, and, accordingly, the financier arranges to borrow $9,000,000 from the bank for the syndicate, which puts as collateral security the bonds of the new company and such other securities as margin as the bank may desire, these securities, of course, being taken from the syndicate's own resources. The arrangement is satisfactory, and on the day appointed the deal takes place. The bank's condition is then precisely similar to what it was, except that instead of lending $9,000,000 to commercial borrowers on their own notes, it is now lending $9,000,000 on collateral securities to the syndicate. The former cigar manufacturers are now stockholders in the new corporation, subject to the optional right of the syndicate to purchase their holdings at an aggregate sum of $9,000,000.

"The times being propitious, the financier decides that the public will take the $10,000,000 bonds at par, and arrangements are made for a public offering at that price on a given day. The issue is extensively advertised and it attracts the notice of the bank's depositors, one hundred in number, each having $100,000 to his credit. Each depositor makes up his mind that the bonds are a good thing, and each subscribes for $100,000, being the amount of his idle money on deposit. The result is that the syndicate has sold its $10,000,000 bonds to realize $10,000,000, and having paid but $9,000,000 therefor, it has a profit of $1,000,000. If the transaction were closed at this point the $9,000,000 loaned would disappear and the original $10,000,000 deposited would disappear, and there would be $1,000,000 deposits, representing the syndicate's profits, and the bank would have $3,000,000 cash representing its own capital and surplus and this $1,000,000 deposit. The bonds, however, have gone so well that the financier decides that it is wise for him to exercise his option on the company's stock, and he determines to buy from the stockholders, under his option, $10,000,000 of the preferred stock at 60, and $10,000,000 of the common stock at 30, the total cost being $9,000,000. He arranges with the bank to again borrow $9,000,000, this time on the stocks as collateral, with such other margin as the bank may require, as in the case of the bonds. When this operation is completed the bank's position is as follows:

LIABILITIES.

Deposit to credit of syndicate...........	$1,000,000
Deposits to credit of former stockholders.	9,000,000
Capital and surplus..................	2,000,000
Total.........................	$12,000,000

ASSETS.

Loans to syndicate on stocks	$9,000,000
Cash in vault	3,000,000
Total	$12,000,000

"The task of the syndicate now is to sell the stocks thus purchased at a profit. This involves the usual practice of 'making a market' for them, probably on the curb market. Transactions are made of what is called a 'wash'* character, at continually advancing quotations, between brokers employed by the syndicate. I regret to state that the financier will probably endeavor to have judicious paragraphs inserted in newspapers calling attention to the great merits of these stocks. Some newspapers will print them, others will not. Finally, quotations for the preferred stock being marked up to 65 and quotations for the common stock being marked up to 35, the stirrings of cupidity make themselves felt in the hearts of the gentlemen who took the company's bonds for investment. These gentlemen are convinced that the time has arrived for them to take a little speculative 'flyer' inthe company's stocks, and, strange to relate, each one elects to buy for himself on speculation 1,000 shares of the preferred stock at 65, and 1,000 shares of the common stock at 35. Being speculators in this instance, they have to borrow money in order to pay for the stocks, and as each one has $100,000 bonds of the new company, each has plenty of margin with which to make a loan. Consequently they go to the bank and borrow $100,000 each on 1,000 shares of preferred stock and 1,000 shares of common stock, with, say, $30,000 of bonds as margin. The syndicate having sold the stocks which cost it $9,000,000 to speculators for $10,000,000, makes another profit of $1,000,000 on the operation, and is besides enabled to pay off its borrowings at the bank. After this operation the position of the bank is as follows:

---

* "Wash" sales are where one broker arranges with another to pretend to buy a certain stock when the first broker offers it for sale. The bargain is fictitious, and the effect is to keep the stock quoted. Or, as in the case above, the plotters buy and sell and run the stock up to a high figure as a basis for actual sales.

LIABILITIES.

Deposits of syndicate	$2,000,000
Deposits of former stockholders	9,000,000
Capital and surplus	2,000,000
Total	$13,000,000

ASSETS.

Loans to speculators on company's stocks and bonds	$10,000,000
Cash in vault	3,000,000
Total	$13,000,000

"The syndicate has cleaned up $2,000,000 on the operation and is content. The original cigar manufacturers have not merely sold their business to the trust, but have sold their stock holdings to the trust, and are now plain capitalists, with $9,000,000 to their credit at the bank. The original depositors are now speculators in the company's stock and investors in the company's bonds. Incidentally, they are borrowers of $10,000,000.

"In a little while the cigar trust falls upon evil days, and the dividend on the common stock, which was started on a 4-per-cent. basis, has to be suspended. The speculators become alarmed and endeavor to sell their speculative holdings. The price of the preferred stock, which cost them 65, falls to 55, and the price of the common stock, which cost them 35, falls to 25. The original stockholders see an opportunity to repurchase their holdings for less money than they received when they sold them, and they conclude to repurchase at 55 and 25, making a total cost of $8,000,000. They have $9,000,000 on deposit at the bank, and they use $8,000,000 of this to buy back the stocks from the speculators, who have borrowed $10,000,000 on them. The speculators are thus able to pay off $8,000,000 of their $10,000,000 borrowings, leaving $2,000,000 still borrowed on security of $3,000,000 of the company's bonds. When this operation is completed the bank's position is as follows:

LIABILITIES.

Deposits to credit of syndicate..........	$2,000,000
Deposits remaining of former stockholders	1,000,000
Capital and surplus..................	2,000,000
Total........................	$5,000,000

ASSETS.

Loans to speculators on bonds...........	$2,000,000
Cash in vault.........................	3,000,000
Total........................	$5,000,000

"The affairs of the trust go from bad to worse, and there is a question of its ability to continue interest payments. The price of the bonds falls materially, and the bank becomes anxious. It calls upon the speculators for more margin, and gets from each another $10,000 bonds, being $4,000,000 in all, to secure loans of $2,000,000. The price of the bonds falls further, and the bank demands payment of the loans. The financier, having taken pains at the outset to inform himself of the true conditions, and knowing that the depression in the cigar trust's affairs is but temporary, decides that it would be a good plan for his syndicate to make a bid to the borrowers of 50 cents on the dollar for $4,000,000 of the bonds, this being just enough to enable them to pay off their borrowings at the bank, and this being exactly the amount of the deposit to the syndicate's credit, representing their profits on the business. The speculators accept his offer. He buys for his syndicate $4,000,000 of the bonds at 50 cents on the dollar. The speculators are able to pay off the $2,000,000 they owe at the bank, the syndicate drawing on its $2,000,000 deposit to pay for the bonds. The bank's position then stands as follows:

LIABILITIES.

Deposits of former stockholders.........	$1,000,000
Capital and surplus.....................	2,000,000
Total..........................	$3,000,000

ASSETS.

Cash on hand.........................	$3,000,000

"The original stockholders think they need a little ready money on hand and draw out their deposits in cash, leaving the bank exactly where it started, viz.: with $2,000,000 cash in its vaults, representing its paid up capital and surplus. I have omitted to take any account of the matter of interest, so as not to unnecessarily complicate the figures, and it is only a matter of detail, anyhow.

"Observe what has occurred. Ninety separate and distinct individual borrowers, each borrowing $100,000, and each owning a cigar manufacturing business, have been formed into a corporation. One hundred individual depositors of $100,000 each, making $10,000,000 in all, have become investors in the bonds of the corporation, and a syndicate, headed by a financier, has extracted $2,000,000 profit from the whole operation. If we suppose the company's bonds again to become worth par, the 'profit and loss' of the operation will be a gain to the syndicate of $4,000,000, as it invested its $2,000,000 profit in bonds at 50 cents on the dollar, which $4,000,000 has been lost by the speculators, who originally had $10,000,000 deposits in the bank, and now have only $6,000,000 of bonds. The position of the individual borrowers at the start is exactly the same, inasmuch as, while they, as stockholders of the company, are now borrowing $10,000,000 on the company's bonds in place of the

$9,000,000 they originally borrowed on their own notes they have secured $1,000,000 in cash, which accounts for the difference.

"It is important to note the factors that may be operative so far as the bank is concerned at the various stages of the whole business. While the bank is doing a commercial business, it must, of course, so arrange its commercial loans as to have maturities falling in all the time, and thus be able to pay its depositors. At the second stage of the operation, however, where the bank is lending on collateral securities, the problem is a little different. Its ability to meet a sudden call on its depositors depends on the ability of the syndicate to pay its loans. The syndicate can only pay its loans by being able to sell securities for cash, either the collateral securities upon which it is borrowing, or such other securities as it may have in its resources. Somebody must be able to buy the securities from the syndicate for cash, or the syndicate cannot pay its loans. It is evident that a sale to speculators merely will not improve the case, unless the speculators can borrow money elsewhere than at the bank, because if the speculators had to borrow from the bank there would simply be a shifting of loans from one borrower to another, which would not provide the means to pay depositors. Therefore, if the depositors of a financial bank want their money, the collateral upon which the bank is lending must be marketable to somebody who can provide the money for the depositors. Convertibility of loans is just as much the first requisite of financial banking as it is of commercial banking, but you will readily understand that the sale of securities to investors is quite a different thing from the sale of commodities to consumers. Where a bank is lending on speculative securities, convertibility in the full sense of the word is more difficult than where it is lending on strictly investment securities. First-class railroad bonds, for instance, can always be sold to investors at a price except in times of extraordinary monetary stringency. Even then they can be sold, because they are the first thing that an investor will buy. Stocks of a speculative character cannot always be sold. There comes a time about once in so often when we have a panic. Such a time, for example, was May 9, 1901. The panic at that time came in the forenoon, and there was time for the rally before the close of the market, the closing prices being, of course, the basis for settlement. Had the panic come at 2 o'clock in the afternoon, and had the market closed at the panic prices, there would have been a record of insolvencies such as never was seen. The banks would, of course, have been very heavy losers all around.

"The hypothetical case that we have considered contains the general principles of financial banking, and, in fact, of finance as it is conducted in Wall street."

The operations here illustrated, with many variations, are common in Wall street and are becoming more common all over the country. This particular illustration shows how the financial banking concerns may make money; not all the operations of financial banking are so disastrous to investors. Most of the operations of financial banking are smaller than those that have to do with the formation of trusts, but they are frequently similar in detail. Such operations are incidental to banking and trust company practices outside of New York.

§ 31. *The Stock Exchange.* Many of the larger cities have stock exchanges, which facilitate the marketing of stocks and bonds and give a certain tacit recommendation to the stocks and bonds they list on account of the rules necessary to be complied with by corporations which seek to have their stocks and bonds admitted to dealings on the exchange. Exchanges do not, of course, guarantee the value of stocks and bonds listed, but they permit only such securities to be dealt in as are thought to have real value. Only large companies with large capitalizations have their securities listed on exchanges, and the advantage of listing lies both in the fact that a broader market for the securities is afforded and that listed securities can ordinarily be hypothecated for loans to better advantage than unlisted securities. The exchanges have committees to which application is made by those who wish to have certain securities dealt in, and these committees pass on the eligibility of the securities as measured by the rules of the exchange. To cite instances of the rules of the New York exchange the following will serve. In the case of reorganized businesses, the exchange demands a description of the new securities issued, a complete financial statement of the business for a period of at least a year previous to reorganization, with details of receipts and expenditures, and a balance sheet. The exchange recommends that a trust company act as trustee of trust deeds or mortgages. Business corporations must submit counsel's opinion on the legality of their organization and of the issue of their securities. Trusts or consolidated businesses must give in statements of the financial and physical condition of their constituent companies and properties, including descriptions of property, real, personal and leased; proof that the real estate is free and clear except as to stated liens; a report of reliable expert accountants, exhibiting the results of business each year for at least two consecutive years, if possible, and a balance-sheet. They shall also state the powers of the directors as defined by the articles of association, furnish an agreement that the companies resulting from consolidation will not dispose of their interests in the constituent companies without authorization by stockholders, and publish at least once a year a sufficiently detailed statement of income and expenditures for the preceding year and the balance-sheet for the preceding fiscal year. All active stocks must be registered at some trust company or other satisfactory place, and the registrar must state the amount of stock registered at the time of application. It is also recommended to the corporations whose securities are listed that they publish to their stockholders at least fifteen days before annual meetings a full report of their operations during the preceding fiscal year, with complete detailed statements of all income and expenditures, and a balance-sheet showing their financial condition at the close of the given period. The stock exchange does everything in its power to accomplish a proper publicity in respect to the corporations whose securities it admits. Corporations which are unable or unwilling to comply with the requirements for admission to the listed department may have their stocks admitted to the unlisted department of the stock exchange by making application and furnishing such information as is necessary to get into this department. The requirements necessary to be admitted to the unlisted department are, of course, not so strict as those of the other, and in consequence the general line of unlisted securities do not stand so high as collateral among the banks. (See, in the appendix, rules of the New York Stock Exchange pertaining to listed and unlisted securities.) On the New York Stock Exchange there are over 1,200 listed stocks and bonds, representing a total amount at par value of about $13,800,000,000 in round numbers, and about seventy unlisted securities, representing about one and a quarter billion of dollars. Nearly one-fifth of the wealth of the United States is represented by securities dealt in on the New York Stock Exchange. Of these, railway securities comprise the larger class, and manufacturing and industrial securities are second. Stock exchanges are voluntary associations and are merely large stock markets with an elaborated mechanism for carrying on easily and justly the vast number of transactions of their members. The New York Stock Exchange is unincorporated, has 1,100 members (dealers in securities), and its objects are "to furnish exchange rooms and other facilities for the convenient transaction of their business by its members as brokers, to maintain high standards of commercial honor and integrity among its members, and to promote and inculcate just and equitable principles of trade and commerce." The securities dealt in on the New York Stock Exchange are of national interest and reputation, while those dealt in on the exchanges of other cities are mostly of local interest and belong to local industrial, transportation, financial and other companies. Mr. Conant has said: "The fundamental function of the exchanges is to give mobility to capital. Without them, the stock and bonds of the share company could not be placed to advantage. Nobody would know on any given day what their value was, because the transactions in them, if they occurred, would be private and unrecorded. The opportunities for fraud would be multiplied a hundredfold as compared with the publicity which is given under present conditions to the least movements on the stock exchange. The mobility for capital afforded by the limited liability company would be meager and inadequate if the holder of its bonds and shares did not know that at any moment he could take them to the exchanges and sell them for a price. He cannot be misled as to this price, because every newspaper in the land, if the security is one of importance, gives him each morning the value which it possessed the day before in the markets of the world. The holder of it thus knows what the average judgment of hundreds of men is upon the value of that security. If it were not thus quoted he would have to rely upon the judgment of a few people, expressing their opinion privately, and perhaps interested in misleading him."

§ 32. The Sale Price of Stocks and Bonds with Reference to Time of Issue.

The features preferred stock has in common with bonds tend to give an impression that the dividends paid on such stock are really interest on the money which was paid for it. And especially is this true when the interest is made cumulative. As has been said, preferred stock paying cumulative dividends usually entitles the holder to a fixed annual income for a term of years, and repayment of his capital in full. If the corporation meets with reverses, he may still claim repayment of his capital in full, although the holders of the common stock get nothing. Also, like the bondholder, the holder of preferred stock has no voice in the general management of the corporation. But neither the credit of the company nor any part of the corporation property is pledged for the repayment of his dividends, nor of the capital he has invested. He is, after all, a mere stockholder, whose capital is risked in the business of the corporation, who can receive no dividends at all until there are earnings from which to pay them, and who cannot compel repayment of any part of his capital except upon distribution of the corporation property after all the debts of the company have been paid and its affairs wound up. It follows that his rights to annual, semi-annual, or quarterly payments on his stock is measured by the rights and liabilities of a stockholder rather than a bondholder—in other words, that he receives dividends and not interest. Dividends are distinguished from interest in that they are distributive shares in a common fund that has accumulated from earnings, and are not in any sense compensation for the use of money during the time for which they are paid. The right to dividends arises out of ownership of a share in a common fund, some part of which is to be distributed; and it makes no difference in the owner's right whether he has owned that interest one month or ten years, nor whether the fund to be used in paying dividends was accumulated before he became a stockholder or afterward. When one views the matter from the standpoint that the unissued and treasury stocks are inert and do not earn dividends, there seems to be an apparent contradiction in the law. One might think that such stocks, under this theory, should share in the dividends only from the time when they became active in earning them. This contradiction is not real, since what the corporation is selling is an added interest in the corporation property as a whole. No part of the corporation property may be withheld from purchasers of these stocks, therefore, when any kind of a distribution is being made. If a corporation having 100 outstanding shares of stock, of the par value of $100 each, but owning $20,000 worth of property, were to sell and issue another 100 shares, and the next week declare a dividend to be paid from the $20,000 surplus that was in its treasury, every purchaser of a new share would be entitled to share equally in this dividend with the holders of the old shares. He would be entitled to it because his share carried with it the ownership of a two-hundredth part of all the corporation owned. Preferred stock, like common stock, may be either unissued or treasury stock, and, when sold, draws dividends, as has been said, and not interest; therefore the shareholders must share equally in any fund available for paying dividends, when a dividend is declared, without regard to the length of time the stock has been held. The rule as to bonds issued by such a corporation would be different. The interest paid to a bondholder would depend upon the length of time his

Impo

money had been loaned to the corporation, and purchasers of a new issue of bonds would not receive interest until all arrearages of interest on an old bond issue had been paid in full. It is apparent that such inequalities as might arise between purchasers of stock who had purchased at different times, would not arise between bond purchasers. Any inequalities resulting from difference in the purchase time of stocks must be adjusted, if at all, by varying the price at which subscriptions for stock are taken as the time for paying dividends approaches, or in proportion to the increase of surplus funds or additional values that belong to the earlier shareholders. To cover accrued values, then, a directorate should sell stock at such an advance over the original price as will not cause a loss to the original purchasers. For instance, if a corporation has increased in value 25 per cent., and the directors determine to sell additional unissued or treasury stock, 25 per cent. should be added to the original price in order that those who came in may contribute their share to the surplus value, and not, by their entrance into the corporation, impair the increased value of the corporate property.

Public stock market practices are as follows: Stocks are ordinarily sold at a "flat" price; that is, at a given figure representing the market value determined without reference to dividend paying time, including the accrued dividends. Bonds, excepting government bonds, which are quoted flat, are sold at a given price without accrued interest being taken into account in the quotation. The accrued interest is to be added to the quoted price and paid in addition. The dividend on stocks goes to the owner of the stock whose name appears on the books of the corporation. Stocks are sold "ex-dividend"; that is, without dividend, after the dividend has been declared and the transfer book of the corporation has been closed for the dividend payment. A stock sold ex-dividend does not, of course, carry with it to the buyer the dividend recently declared. On an advertised day, a given time before the day for dividend payment, the transfer book closes, and no more changes in stock ownership are recorded, the dividends being paid to the stockholders of record the day previous to the advertised day. The ex-dividend quotation on a stock exchange is usually the price of the stock just before the closing of the transfer book of the corporation soon to pay the dividend, less the amount of the dividend. If the price of the stock is 150 (a "dividend on" price), for instance, and the corporation books close for a dividend of 3 per cent, the next quotation will be 147, if nothing has occurred besides the dividend payment to alter the price.

In the beginnings of a corporation, when the stock is first being placed, slight accrued values are frequently given little attention, all persons coming in within six months or even within almost a year sharing equally in the profits without having paid for the profits accrued. But this only occurs where there is more necessity of placing the stock than of being particular that the stock shall be placed equitably.

The articles of association of corporations sometimes provide that dividends on preferred stock shall be paid semi-annually from the date of issue. For bookkeeping convenience, a corporation about to place preferred stock will issue to a trustee a certain number of shares in a block, say 250 or 500 shares, which the trustee will transfer to purchasers in smaller blocks. Dividends are paid on this stock from the time it is issued and the trustee receives the selling price plus added value on account of accrued profits and dividends, the total receipts for the stock being turned over to the corporation treasury. Dividend paying on all this preferred stock then comes at the same time. If all this preferred stock is sold in the six months, or if it is contemplated that more will be absorbed by purchasers than is left over, another block may be issued to the trustee to cover the probable demand, if there is still more unissued preferred stock for sale.

§ 33. Changing a One-Man Business or Partnership to a Corporation.

In making a corporation out of a one-man business or a partnership, the general process is the same as when making a corporation to build up a new business. Since a corporation must have a minimum number of directors, say three, each of whom must usually have a share of stock, the one-man business cannot be turned into a corporation and the one man be permitted to own all the business as before. But this is often practically accomplished by selecting two members of his family or two friends, to each of whom he gives a share of stock, in order to make the required number for organization, and who in turn assign the stock in blank and return it to the principal stockholder, who keeps it deposited in his safe, or elsewhere in his own possession. These persons are made stockholders of record and are then apparently qualified to act as directors. When the principal stockholder desires a change, he can take away the stock and disqualify either director by writing in the name of any person he chooses as assignee, and having a new certificate issued to that person and the transfer recorded on the stock book. The same plan may be followed where a partnership of two is changed into a corporation and a third director is necessary. The corporation counsel is frequently chosen as one of the "dummy" directors. But, often as this is done, it is not an entirely safe method of filling the directorate. The statutes of the state under which the corporation is organized should be carefully examined to find if it is necessary for directors to hold stock before anything of the kind is attempted. Directors should usually be *bona fide* holders of stock, and should have paid money, property, or proper services for it, which fact should be provable. If an individual owning all the stock should so fill his directorate with persons who had no real interest in the business, when the statutes say or imply that directors shall be shareholders, the courts would hold, on proper presentation of the facts, that no corporation existed and that the owner was liable for all debts incurred in carrying on the business. The addition of more capital to extend the business, the division of the business into parts on the corporate plan, or any other legitimate business purpose are proper motives for a corporate organization, but fraud may not be accomplished by so organizing. Business real estate, owned by the business persons organizing a corporation, which they in-tend shall belong to the corporation, will, of course, be transferred by deed to the corporation, and personal property should be transferred by bill of sale which accurately describes the property transferred and includes an agreement that the corporation assumes the liabilities of the business transferred, if that is the plan. The procedure in changing such a business to a corporation is as follows: If the old name of the business has any particular value on account of prestige and good will, and is adaptable to the new business and is satisfactory to the stockholders, it may be well to use it as it stands or to arrange a recognizable adaptation of it as the name of the corporation.* Then the formal incorporation should be made according to plan. An inventory should be made of all properties which constitute the assets of the business, and then an inventory of all the debts, which constitute the liabilities. Subtract the liabilities from the assets, which shows the net value of the business, and determine what part of this net value belongs to each of the individual partners, if it is a partnership concern. Formally transfer to the corporation all the assets of the business, as the inventory shows them, and issue to the incorporators full paid stock for their interests in the business as previously determined. Finally make the proper entries showing the transaction in the stock book of the corporation.

---

* Corporation names: H. C. McCollum discusses "Protection by Equity of Corporate Names against Unfair Competition" in the *Columbia Law Review* (V, vi, p. 244). A corporation is protected in the use of its name upon principles very similar to those which govern the protection of trade-marks. An individual as such has the right to the use of his own name in his unincorporated business, even though a previously existing company has acquired a valuable good-will by the use of the same name. In exercising this right, however, the new competitor must act honestly and refrain from any active attempts to deceive the public. In granting relief the circumstances of each case must be considered and the probability of loss must be shown. Most authorities hold that fraud is necessary to support an action based on alleged unfair competition. The question on the cases is, however, still an open one. The strongest argument against the majority of cases is the analogy from trade-mark cases. The author contends for an extension of those rules to the cases under discussion, and that a corporate name when applied to the services or articles offered by the corporation stamps them as acceptable just like a trade-mark. Since fraud is usual in such cases courts have assumed that it is essential.

§ 34. Proper Valuation of Private Business or Partnership Assets, Patents, and Other Property to Safely Constitute Stock Exchanged for Them Full-Paid.

Since it is the rule that stockholders are liable for the amount of unpaid stock subscriptions, it is of importance for those giving property or services in exchange for stock to know when their stock may be considered judicially to be full-paid. The laws of the various states differ to some extent, and the laws of the particular state under which a new corporation was organized will necessarily be a subject of investigation by the persons interested. Usually the appraisal by a board of directors of the property or services paid for with stock is, in the absence of fraud, conclusive upon creditors of the corporation who are seeking in case of insolvency to enforce an alleged liability for unpaid stock. The modifications of this rule in the parental state of any corporation under consideration will be matter for inquiry. In general, any valuation of property or services must be reasonable. Commercial practice may determine to a large extent the reasonableness of valuation of property or services. In the case of the transfer of property of a one-man or partnership business to a corporation, for instance, a reasonable inventory will determine the value of the tangible assets. But stock may also be issued for the good will on the basis of earnings of the corporation and still be within reason. Take a business whose net tangible assets are worth $100,000. Suppose it is earning uniformly from 10 to 15 per cent. annually. Suppose the business is to be transferred to a corporation capitalized at $200,000, $50,000 of which stock is to be paid in in cash and $150,000 in exchange for the business. The holders of the $150,000 stock would be as safe as against the creditors as the holders of the $50,000 stock paid for in cash; for, though the

$50,000 above the value of the tangible assets is "water" in a sense, yet a business that is earning such per cents as those mentioned would be well worth the $50,000 premium. If it is desired to certify the valuation of property and business to the fullest extent, an expert accountant may be employed to do this so far as the books are concerned, and he will probably employ appraisers familiar with the particular kinds of property under appraisement to determine their value. Massachusetts has an admirable arrangement that the president, treasurer, and a majority of directors must swear to a statement giving a description and the value of property exchanged for stock, which the commissioner of corporations shall indorse with his certificate as to its fairness, and file with the secretary of state. Services and patents are subject to a more arbitrary valuation than property. But, in cases of any permitted exchange of property and services for stock, the valuation must be reasonable and without fraud. It is safer to estimate the value of property and services from the standpoint of their value to the corporation rather than from the standpoint of the persons who sell or render services. If a valuation is fair and honest at the time it is made, subsequent depreciation, or the fact that the value did not prove to be as much as was estimated, need not concern the one who received stock in exchange for property or services.

§ 35. **Stock Subscriptions.**

At common law, subscriptions to the capital stock of a corporation are binding as soon as the total amount of capital stock is subscribed and the corporation is created. Previous to the creation of the corporation the subscriptions are a continuing proposition to the corporation to take stock. The creation of the corporation is the acceptance of the contract on the part of the corporation under ordinary circumstances, though a corporation when organized is not bound to accept a subscription. But when accepted, a subscription is binding, provided the conditions attaching to it, if any, have been fulfilled by the corporation. By statute or by agreement in the subscription contract, when permitted, there may be a clause which provides that the subscriptions shall be enforceable when a certain amount, given as the amount with which the corporation will begin business, has been subscribed. Then, although the full capital stock is not subscribed, the subscriptions are due and must be paid as soon as this amount is subscribed and the corporation is created. Subscription contracts should be specific in naming the par value of the shares subscribed, whether they are preferred or common, and should include all matters of moment to the correct execution of a contract.

At common law, a corporation may sue a subscriber on his subscription agreement for non-payment, whole or partial. The statutes in addition generally permit the corporation to declare a forfeiture and to sell stock for non-payment; but the forfeiture must be brought about in accordance with the provisions of the statute or articles authorizing it. When a forfeiture is brought about legally, the subscriber is free from further liability on his subscription contract; but a forfeiture cannot be brought about collusively to relieve the subscriber from such liability. In enforcing the forfeiture remedy for non-payment, the statute should be closely followed in its requirements. The corporation will elect which remedy it will pursue. After a subscription is accepted and valid conditions are fulfilled, a subscriber is a stockholder whether he has paid his subscription or not, and remains so until his stock is legally forfeited by the corporation under statutory procedure. In England it has been held (Licensed Victuallers' Mutual Trading Ass'n., *ex parte* Audain, L. R. 42 Ch. Div. 1, 26 A. & E. C. C. 217) that "underwriting," as applied to shares, means "an agreement entered into before the shares are brought before the public, that, in the event of the public not taking up the whole of them or the number mentioned in the agreement, the underwriter will, for an agreed commission, take an allotment of such part of the shares as the public has not applied for," and that such an agreement may constitute an application for shares on which the underwriter is liable as on a common subscription.

Assessments on share subscriptions, when unpaid, draw interest from the time they are due. The definition of "assessment" is, that it is a resolution, generally passed by the board of directors of a corporation, that the shareholders shall, within a date named, and at a place named, pay a certain percentage of their share subscriptions; and the notice of this resolution communicated to the shareholders is a "call" (Seymour D. Thompson, 10 Cyc. 496). The law relative to notice of assessments in the several states should be complied with in order to enforce subscriptions.

(See Stock Subscription Book.)

PART III.

CHARTER, ARTICLES, BY-LAWS, AND RULES OF ORDER.

CHARTER, ARTICLES, BY-LAWS, AND RULES OF ORDER.

§ 36. The Charter and Articles of Association.
37. The Purposes for Which a Corporation is Formed.
38. Powers Common to all Corporations.
39. *Ultra Vires* Acts.
40. Amendment of Charter and Articles.
41. Irregular Incorporation.
42. Forfeiture of Charter by Non-User.
43. The Beginning of the Existence of a Corporation.
44. By-Laws.
45. Rules of Order.

§ 36. THE CHARTER AND ARTICLES OF ASSOCIATION.

A private corporation cannot be created by mere agreement of members. It can only be created by the state through authority of the legislature. This legislative authority, contained in the acts by which a corporation is given power to exist and perform its functions, constitutes the charter. It is taken advantage of by a certificate of the intention of the proper number of qualified persons to exercise the right to do business as a corporation, called the articles of association of the corporators, in which are set forth the main purpose of the corporation and the auxiliary purposes and powers which the corporation has a right to under the law and which it wishes to use, and such other essential information as the corporate name, the amount of capital stock, the number of shares into which the capital stock is divided, the place of business, a description of the corporate seal, the duration of the corporation, the number of directors, and any other matters which the statutes require or the corporators desire and have the right to make a part of the fundamental law governing their body. The contents of articles vary with the statutory requirements of the different states. The preparation of articles can only be attended to properly by a competent lawyer. After they have been written, and all desired changes have been made in them, the articles of incorporation must be signed and acknowledged before a notary public or other qualified officer by the persons who are the corporators. If they are made in proper form and are properly executed, incorporation results as a matter of course, the articles having been filed with the proper officer, generally the secretary of state, and the fees having been paid into the state treasury. Then the legal rights of the corporation are complete and it may perfect its organization and begin business. Sometimes a minimum amount of paid-up capital is required before the corporation can begin business, and in cases where this is so the corporation must have had paid into its treasury this minimum amount before it is fully qualified. Also, in some states it is required that a duplicate copy of the articles of association be filed with the clerk of the county in which the principal office of the company is located. A certified copy of the articles will be furnished by the secretary of state for a small fee. The articles of association are oftentimes called the charter.

§ 37. THE PURPOSES FOR WHICH A CORPORATION IS FORMED.

The purposes set forth in the articles must be such as the law of the state permits. They are not usually confined to one specific business. The wording of the statutes is general, and is given a liberal construction by the courts. One principal business and many auxiliary businesses, carried on incidental to the principal business, may be permitted. But, as a rule, the auxiliary purposes must not extend to banking, insurance, steam railway transportation, and certain other businesses that have a close relation to the public welfare, for these businesses must be organized under special laws under which special qualifications are usually imposed. As the purposes for which a corporation was organized must be determined by the statement in the articles of incorporation, they sometimes are set forth at great length. All the latitude the company desires and has a right to under the law, in the way of purposes and powers, should be expressed in the articles.

§ 38. POWERS COMMON TO ALL CORPORATIONS.

There are certain powers inherent in every corporation whether they are mentioned in the charter or not. A corporation is a legal person separate from the stockholders, therefore it has the right to sue and be sued under its corporate name. This power saves the exhibition of the names of its members as parties to litigation. In order to forward the purposes of organization it is necessary that a corporation have the right to acquire, hold and convey property. Except, that sometimes the amount of property it can hold is limited; and sometimes corporations are excluded from the power of holding stock in other corporations, and again, to enjoy the power of holding stock, they are sometimes required to mention in the articles the intended use of the power. A corporation has the right to have officers, directors, or trustees, and agents, and to make by-laws. A charter is commonly expressed in general terms and comprehends the general rules governing the policy of the incorporation. The rules governing the action of the officers, directors, and managers, and other incidentals, are expressed in such detail as desired in the by-laws. The corporation may also use a seal and may "do all things necessary," an expression used to cover acts not expressed specifically which are not always inherent corporate rights, but which may, under the provision, become so in a particular case. By action of the stockholders, a corporation has the power to terminate its existence, or dissolve. These are powers all corporations have in common, without special provision in the articles. The special powers granted the corporations are such as the statutes provide and as are mentioned in the articles of incorporation as purposes and rights intended to be pursued by the company.

§ 39. ULTRA VIRES ACTS.

Whatever a corporation does that is beyond a judicial interpretation of its powers as provided in its charter is, in the language of the law, *ultra vires* (beyond power). A corporation guilty of *ultra vires* acts may forfeit its charter, or it may only be restrained from exercising the powers which it has assumed and to which it has no right. The former punishment is usually imposed only when the act is sufficiently important to affect the public interests, or when a statute specifically provides that certain acts shall be punished by forfeiture of the charter. If a corporation violates its charter, or does not perform its corporate duties in material and important particulars, it is subject merely to regulation by law. As a matter of fact corporations frequently do things which are not provided for in the charter, but the state does not act so long as private persons only are affected. The strict interpretation and enforcement of the *ultra vires* doctrine is adhered to in the federal courts, but state courts have contemplated it more liberally. The latter hold that an *ultra vires* contract is not illegal and void because of want of authority, and that if the contract is founded on a good consideration and is not void on account of statutory prohibition, it is voidable only, and may give rights of action. It has been held that "the plea of *ultra vires* should not as a general rule prevail, whether it is interposed for or against the corporation, when it would not advance justice, but on the contrary would accomplish a legal wrong." The doctrine of estoppel will be interposed against rights of action or of defense on the ground of *ultra vires* when corporations or persons have so acted that the defense on this ground would be inequitable. Owing to the wide scope of powers now permitted in charters and the liberal modification of the doctrine of *ultra vires* on the part of the state courts, the doctrine in its application to private corporations is not so important as it was formerly. Notwithstanding, those who manage corporations should consider all they wish to do, and in doing things of importance should be sure they have the authority of their charter to do them. When the articles do not provide for the performance of certain acts, and it is desirable that they should so provide, they may be amended to include the powers wanting, if the statutes will permit those acts.

§ 40. AMENDMENT OF CHARTER AND ARTICLES.

Since the charter of a corporation is the law under which a corporation is organized, it follows that the right to amend, alter, or repeal a charter belongs only to the state. There is no such thing, strictly speaking, as amending a charter by action of the stockholders of a corporation. The stockholders, in changing their articles of incorporation, are merely making a variation in certain incidentals which they have a right to vary, add to, or subtract from the charter (the laws) already provided. When a corporation is organized according to law, it has the right to use the powers and privileges conferred upon it by the laws in force when it came into existence. The constitution of the United States protects it in this right by prohibiting all legislation which impairs the obligation of contracts. An amendment or alteration of a charter that cannot legally be imposed on a corporation by a state legislature, may be offered to the stockholders for acceptance or rejection, and their action is conclusive. If the proposed amendment will effect a radical change in the plan and purpose of a corporation, it can be accepted only by unanimous vote of the stockholders; if the change is merely incidental, a majority of the stockholders are empowered to accept it. If the state has a legal right to alter or amend a charter, a corporation has the alternative of accepting the change or of going out of existence. But, as said, the state cannot, on account of its reservation of a right to change a charter, cancel rights which have become vested in a corporation. The power of the state is used in controlling corporations in keeping them within the bounds of the powers and privileges conferrable and conferred by law. The state's power to repeal, suspend, alter, or amend does not extend either to taking away permanently or temporarily rights granted before, nor to the substitution of different rights. The nature and purpose of the corporation, as legally formed, must remain intact. A state may have many legislative acts under which corporations may be organized. The specification of powers granted by these acts imply the exclusion of powers not specified. So, a corporation for a given purpose might be organized under any one of several different acts which provide for that purpose. The choice of the act under which the corporation shall be organized will depend upon provisions conforming most nearly with the main purpose of this particular organization, taken in connection with the auxiliary purposes that pertain to its business. The wording of articles to fit the act under which they are made is an important matter. The act may specify certain purposes and powers either disjunctively or inclusively, the powers conferrable under the act being conferrable only severally, so that no one corporation may have all the powers, or they may be conferrable jointly so that one corporation may exercise all the powers. Remembering the state's right to interfere with the corporation if it is not organized legally, the necessity of employing a lawyer to draft the articles is evident as a business precaution. From the standpoint of changes in the articles by stockholders, after the corporation has been created, the alterations consist usually in changing the corporate name, changing the amount and kind of capital stock, the limitation or extension of the business purposes, changing the number of directors, etc., within the limitation of rights which the act has provided. But the essential character and purpose of the corporation is not changed thereby. A corporation may sometimes change its character and purpose almost entirely by taking advantage of legislative acts which the states sometimes provide, whereby the state offers the corporation certain powers not conferred in the act under which the corporation was organized. This is, in effect, an offer by the state of an optional amendment to the charter already conferred, which the corporation may accept by complying with the requirements of the statute offering the amendment. Of course, a corporation may dissolve and the same business and people may reorganize under another statute, but such procedure destroys the old corporation entirely and makes a new one, so far as the law is concerned. The steps necessary to change the articles of incorporation by action of the stockholders vary in the different states. For instance, New York laws provide that a corporation may change its name by publishing for six weeks a notice of intention to change and by application to the supreme court for an order authorizing the change; that the purposes and powers of the corporation may be altered by a vote of three-fifths of the capital stock; that the number of shares into which the capital stock is divided may be increased or decreased by vote of two-thirds of the capital stock; that the amount of the capital stock may be increased or reduced by concurring vote of the stockholders holding a majority of the stock. Arizona laws provide that any proper amendment may be made by the concurring vote of a majority of the stock. The amendment of the articles by stockholders usually requires as much formality as preparing and filing the original articles, and should be attended to by a competent lawyer. Certificates and documents in evidence of authorized changes, made by the proper officers of the corporation, or other authorities, must be filed with the same state or local officers that were legal custodians of the original articles, and, perhaps, must be given publicity by publication. The formalities may vary with the nature of the amendment, and they may vary in different states with the same kind of amendment. Small state fees are usually charged when amendments to articles are filed. The action of directors is sometimes an amendment of the articles. Though the location of the principal office be specified in the articles, the New Jersey law provides that a concurring vote of two-thirds of the directors shall be sufficient to move the office from a town, township, or city to some other such location. A properly certified copy of the resolution must be filed with the secretary of state and a fee of $5.00 must be paid. Amendments may originate with the state as shown, or, in connection with more common business routine, with the directors or stockholders. Amendments may be considered at a regular meeting of directors or stockholders, the time of which is specified in the by-laws, or the by-laws of a corporation may provide that a special meeting may be called; in the case of a directors' meeting, by a call of the president of the corporation or a certain number of the directors, or, in case of a stockholders' meeting, on call, usually, of stockholders holding a majority of stock. Amendments may be proposed and carried or vetoed in the manner provided in the statutes of the state under which the corporation is organized.

§ 41. IRREGULAR INCORPORATION.

No corporation is created if there are no articles or if the articles are essentially defective in complying with the corporation statutes of the state under whose laws the organizers are seeking to form their company. The language of the law is that there shall be a substantial compliance with all the terms of the general incorporation law.

§ 42. FORFEITURE OF CHARTER BY NON-USER.

If a corporation does not begin business or the exercise of its corporate purposes within a certain period, which varies in different states, it usually forfeits its charter and its corporate powers cease.

§ 43. THE BEGINNING OF THE EXISTENCE OF A CORPORATION.

A corporation exists from the time the articles are executed, recorded, or filed for record, or are approved by a public official or from any other time the statutes of the various states provide. The persons interested in it may have begun business before the conditions precedent to a complete organization had been complied with, and they are then liable as partners for the debts of the business until the corporation assumes the debts. No business as a corporation can be done until all the statutory provisions for the organization are complied with. The legal existence of a corporation is not terminated, however, by a violation of its charter by beginning business before the conditions precedent to a legal existence are complied with.

§ 44. BY-LAWS.

By-laws are the general working rules adopted for the internal government of a corporation. They regulate the conduct of the corporation and define the duties and rights of members of the corporation toward the corporation and among themselves. They apply to those discretionary and prudential matters of corporate and business conduct that are not regulated by statutory law or the corporation's charter. By-laws are of a somewhat permanent nature, in which they differ from resolutions and motions, which have reference to temporary and particular occasions and exigencies. By-laws must, of course, not disagree with the law of the land, common, constitutional, nor statutory, nor with the corporation's articles, and they must be reasonable and equitable; that is, they must make no provisions that are in effect against public policy, or an injustice to any members of the corporation. The by-laws may modify the articles, but they cannot alter them. They should state clearly and succinctly what they provide and should not be a mere repetition of the provisions of the articles of association. They should be made with care and deliberation, for wise by-laws may greatly facilitate the government and management of a corporation and unwise by-laws may seriously impede these functions. They may prevent careless and impolitic actions on the part of officers and directors, or they may interfere with their liberty of action to a detrimental extent. The size of the corporation and the degree of intimacy of the officers and directors with the business will determine largely the necessity of detail into which the by-laws shall go. If the stock is held by a few persons who are officers and directors, and who meet often or conduct the business themselves the by-laws will be few and simple. But in an intricate business, where stockholders and directors are many and meet seldom, where the officers are not superintending the business closely, where the management is in the hands of employes, the by-laws should cover all matters of importance to the internal regulation of the corporation's affairs. Where there are statutory provisions regulating corporation management, these may be included in the by-laws to make the provisions more familiar to members of the corporation. The by-laws should be grouped according to application; for instance, in the order of the usual priority of matters with which the corporate management is concerned, (1) stock; (2) stockholders;

(3) directors; (4) officers; (5) finance and dividends; (6) miscellaneous. In large and intricate companies the corporation counsel usually drafts the by-laws, as well as the articles of association. It has been held that all business rules and regulations of a corporation which do not affect third persons come within the meaning of by-laws. Properly constructed and authorized by-laws are binding on all of the members of a corporation alike. Members are supposed to know the by-laws, and their assent to the by-laws is presumed on account of their becoming members, whether they did or did not know of the existence of by-laws. By-laws are binding upon officers of a corporation whether they be stockholders or not, but it is the rule that they are not binding on third persons who have no connection with the company. Illegal by-laws are not binding. Since the courts do not take judicial notice of by-laws as they do of public statutes, in litigation involving the provisions of by-laws, the by-laws must be produced in court and proved, if they are written, or their adoption may be proved by oral evidence, if they have not been formally recorded.

When a company has been created, the first corporate action is a meeting of the stockholders for the purpose of adopting by-laws, electing directors, and attending to other corporate business. Sometimes the directors of the corporation for the first year are named in the articles of association, and sometimes the stockholders at their first meeting authorize the directors to compose and adopt the by-laws, if there is no previous arrangement in the articles or in the statutory law. As stockholders do not ordinarily have the right of direct participation in the business management of a corporation (the right belongs to the directors and officers), it is better for them to provide such general rules of management, by-laws, as they desire the directors and officers to follow. Of course, when there are only a few stockholders who are also the directors and officers, this is not important. The stockholders (a majority) have the right to make by-laws unless statutory law or the articles of association declare otherwise, or unless the stockholders have given the right to the directors, in which case it is implied the stockholders surrender the right. If the stockholders pass by-laws limiting the power of directors, such by-laws are binding upon the directors as are the articles of association and the state law. If the stockholders give the directors general authority to pass by-laws the directors cannot alter those made by the stockholders in limitation of the directors' power. Directors have no power to modify or violate stockholders' by-laws, unless the articles so provide, but they may waive or modify those made by themselves. The reason for giving statutory permission (New Jersey) to the directors primarily to make by-laws is that, in large corporations where the stockholders are numerous and scattered, it is thought desirable that the directors have more liberty than they are allowed under the common law, or were allowed under statutory law till the New Jersey law was passed. This unusual liberty granted to the directors is not one of the prudent developments of the later corporation legislation, although power is given the stockholders to alter or repeal the directors' by-laws. In all corporations where the stockholders can be easily assembled it is much better for the stockholders to retain the right of making by-laws, unless the right is given to the directors subject to by-laws already passed by the stockholders. By-laws may be repealed, added to, or amended at any time that is necessary or desirable. These things are done according to statute, the articles, or the by-laws themselves, if special provision is made therein, or by a majority of the stockholders in case of no special provision. Whatever authority makes a by-law has the right to repeal or amend it, and amendments have the same force as original by-laws. Changes in by-laws cannot be made, however, where certain rights have become vested by virtue of the previous by-laws. By-laws are sometimes not observed. By consent of all the stockholders, or of the directors, so far as the by-laws made by them are concerned, the by-laws may be waived when it will facilitate business transactions, and the transactions may be conducted in any manner the discretion of the members may dictate so long as they are within the provisions of the law and the articles. Though by-laws are not made to be ignored, in practice many times they are violated and the acts in violation are legalized by assent or acquiescence of the members. If a stockholder objects to an irregularity, he must take steps to defeat the irregularity, else he will be considered to acquiesce, and cannot object thereafter. Unless a corporation is in good financial condition and free from debt, violation of the by-laws may cause much inconvenience, and, perhaps, litigation. Stockholders and sometimes creditors have the right to insist that the corporation's affairs shall be conducted according to the articles and statutes. Hence the danger attending the violation of the by-laws are a restraint upon their non-observance. Illegal corporate action may be defeated by a stockholder or creditor who will take the matter to court. Officers and directors may also become personally liable on account of such violations. Specific penalties are sometimes imposed for violation of the by-laws, but their use is generally unsatisfactory. It is better at the first opportunity to displace officers and directors who are derelict in their duties than to hedge them about with fines. When penalties are reasonable, however, the courts will uphold them. It has been provided by statute (New Jersey) that the violation of a by-law may be punished by a fine of not more than twenty dollars. All fines must be certain and applicable to all cases of a given kind. But no business corporation can, on the authority of a by-law, unless the articles so provide under statutory right, deprive a member of a corporation of his rights of membership or make him forfeit his stock. Sometimes there may be a forfeiture of stock for failure to pay calls and assessments, if the statutes so provide, or if the stockholders consent and indorse on their certificates a contract to that effect. When stock is forfeited and a by-law provides the manner of reversion and disposal of the stock, the by-law must be observed, or the transaction is illegal. By-laws should always be formally adopted, and should be written completely in the minute book. If the corporation is large, copies of the charter and by-laws should be type-written or printed and furnished to the stockholders and employes concerned in the government or management of the corporation.

§ 45. RULES OF ORDER.

Parliamentary law is that body of recognized rules of parliamentary and legislative assemblies by which their procedure is regulated. The name "parliamentary law" is taken from the British Parliament, on whose practice and usage this law is mainly founded. In the American Congress, such changes and modifications have been made in the rules as will better adapt them to usage in this country. The rules as used in the highest deliberative and legislative assemblies of a nation form the basis for procedure for state assemblies, and for minor public and private assemblies. For the use of the various kinds of minor assemblies, including the meetings of stockholders and directors of private corporations, such manuals of modified and adapted practices as Roberts' Rules of Order, Cushing's Manual, Reed's Rules of Order, etc., have been devised.

Rules of order are what may be called the common law of deliberative and legislative bodies, and the decisions of the presiding officers become precedents just as do the decisions of judges in the courts of law. They constitute a uniform and exact method of determining the sense of the assembly as expressed by a resolution, order, or vote. A corporation has the right to make its own rules of order, not in disregard of the provisions of the constitution and by-laws, and to change and suspend the rules at will. It is not unusual for a by-law to provide that meetings of the stockholders and directors shall be conducted according to some hand-book, such as one of those mentioned. In the absence of such a by-law, the only requirement is that those present and entitled to vote at a meeting shall have a reasonable opportunity to present measures for consideration, to be heard on any measure presented, and to record their votes in favor of or in opposition to those measures. Rules of order, regularly adopted, are necessary to those who seek to rush a measure through a meeting without full discussion, or who wish to prevent due consideration of a measure in any manner. This is because no court will be slow to set aside action by the majority which bears evidence of being a high-handed proceeding, unless the supporters of the action can show affirmatively that procedure was according to rules adopted. The application of rules which prevent full consideration and expression by members who have authority to consider a measure and to express themselves on it, is called "gag-rule." Commonly, rules of order are important only as they facilitate the dispatch of business and provide a regular and orderly means of transacting it and assist in keeping a record of what is done. If action is taken by a fair vote after full discussion or the opportunity for full discussion, it will not be set aside by the courts for informality that did not violate any statute or the by-laws of the corporation.

PART IV.

DIRECTORS AND OFFICERS.

DIRECTORS AND OFFICERS.

§ 46. Numbers, Qualifications, Powers, and Right to Choose and Remove.
47. Directors' Meetings.
48. The President.
49. The Vice-President.
50. The Secretary.
51. The Treasurer.
52. The Managing Director and the General Manager.
53. The Counsel.
54. The Auditor.
55. The Committees.

§ 46. Number, Qualifications, Powers, and Right to Choose and Remove.

After the adoption of the by-laws the formal selection of directors and of officers is the next thing in order. In many of the states the number of directors is fixed within certain limits. For instance, the laws of South Dakota provide that there shall be not fewer than three nor more than eleven directors. Most of the states provide that there shall be not fewer than three directors, but not many prescribe a maximum limit. For small corporations a small board is usually more effective, as well as more convenient to assemble. The members of a large board, besides being difficult to assemble, may not feel their personal responsibility in the management of the corporation affairs. Consequently the success of the company, so far as their supervision goes, is more or less uncertain, and their duties are taken over by the officers, thus giving the officers more than their proper share of authority, or the directors delegate the management to an executive committee composed of several members of the board. Though this is often done, it is sometimes carried to an illegal point, as the directors do not have the power to delegate the right to exercise discretion which is vested in them.

In the larger corporations there is often a classification of directors with regard to the periods for which they shall serve. Suppose a corporation is to have nine directors. At the first election three will be elected to serve one year, three to serve two years, and three to serve three years. This will bring about the election of one-third of the board every year. It will be noted that after the first two years, each of the three divisions of directors will serve three years. An arrangement of this kind preserves to the corporation a certain portion of the directors who should be reasonably familiar with the corporation's business, and also tends to prevent radical changes in the business policy. Directors serve until their successors are elected, even if it be beyond their prescribed terms.

Any one who may be a corporator may be a director or officer, as there are no special qualifications necessary unless required by the statute, charter, or by-laws. A director is, however, usually required to be a stockholder. Non-residents of the domiciliary state of a corporation may be directors; but in some states a certain part of the directors are required by statute to be residents of the domiciliary state. Though there are no special legal qualifications for directors and officers, there are, of course, special business qualifications. Directors should, as far as possible, be chosen from those who are specially fitted by education and experience to manage the affairs of the corporation. Men of good personal character and high integrity, intelligence, foresight, energy; men with large comprehension and keen analytical faculties; men who are capable of looking at business with an unprejudiced business eye, who reduce the personal equation to the minimum and thus avoid dissension; resourceful and reasonable men make by far the best directors and officers.

The relation between the corporation, on the one hand, and the directors and officers of the corporation, on the other hand, is that of principal and agent, and the law of agency applies to acts done under this relation. It is presumed that an officer or agent who has executed a contract or done any act for and in behalf of the corporation, has had proper authority, where the act is clearly within the powers of his office or agency; therefore, proof of such authority from the corporation records is not necessary. All such contracts made and acts done bind the corporation. Though the active general management of the corporation belongs to the directors, they have no individual authority to act unless given powers of agency, either special or as officers, by the board as a whole. The general management belongs to directors as a board, and action of the board must take place at board meetings, except in those states which give statutory authority to a majority of the board to pass on matters of business without a formal meeting. When stockholders have delegated powers to the board, the board's authority is supreme. The stockholders can then neither force the directors to exercise the powers delegated nor restrain them from exercising the powers unless the neglect to act or the act is so unjust or so prejudicial to the interests and rights of the stockholders as to warrant an appeal to the courts. Powers delegated in by-laws may be repealed, however. Ordinarily the recourse of stockholders who are dissatisfied with their directors is the election of a new board.

It has been held that neither a corporation nor its directors may remove a member of the board except according to the provisions of a statute, of a valid by-law, or of other constating instrument. But there is modern authority that a corporation has, incident to its existence, the implied power to remove a director or officer for cause, independent of statutory provision or provision in the articles. Where there is no such authority given in the statutes, a corporation will do well to provide in the articles or by by-law for the removal of directors and officers for cause. Directors can be removed only by the stockholders of a corporation, unless there is specific statutory authority given to the directors themselves to remove one of their body. When the directors are given the authority, it usually requires a two-thirds vote. At common law, the grounds of amotion (removal) of a director have been said to be, first, such as have no immediate relation to his office but are in themselves of so infamous a nature as to render the offender unfit to exercise any public franchise—in cases of this kind, forgery, perjury, and the like, there must have been an indictment and conviction in court; second, such as are only against his oath, and the duty of his office as a corporator, and amount to breaches of the tacit condition annexed to his franchise or office; third, such as are of a mixed nature, as being an offense not only against the duty of his office but also a matter indictable at common law—in respect of these offenses the corporation has the power of trial as well as the power of removal.* Corporate action is necessary to the forcible removal of a director (he may voluntarily resign on request), and to make the proceeding legal, the purpose of trying the member of the board should be stated in the notice of the regular or special meeting at which the trial will occur. Further, there should be "a monition or citation directed to the offending person to appear at the appointed meeting for trial; a charge given to which he is required to make answer; a competent time assigned for proofs and answers; liberty of counsel to defend him, and to except to proofs and witnesses; and a solemn sentence after a hearing of proofs and answers." Unless statute or the rules of the organization provide otherwise, witnesses need not be examined under oath. It is not necessary that the evidence be only such as would be admissible in a judicial trial; it is sufficient if it be of such character as would be used by men in their private affairs, so that nothing occurs which violates the principles of natural justice. The trial may be conducted openly, or behind closed doors. Directors or officers appointed by resolution and holding place during the pleasure of the appointing power, are removable by resolution. (Thompson, Cyc. 745, *et seq.*) Where there are statutory requirements for the removal of directors, they must be followed.

The power of the board of directors extends to the transaction of any and all of the company's ordinary and regular business. "For the purpose of dealing with others, it is the corporation." Thus it may borrow money, contract debt, mortgage the property of the corporation, and issue bonds, but it cannot do such radical acts as to increase the capital stock, lease the corporation property, or wind up the corporate business without the consent or express authorization of the stockholders. In the transaction of ordinary business the board is bound by the provisions of the statutes, articles, and by-laws, and in case of non-observance where there is resulting damage, the members are personally liable.

---

* Quoted from an opinion of Lord Mansfield, with comment by Seymour D. Thompson.

At common law, directors are personally liable for *ultra vires* acts from which damage comes; and for fraud, trespass, or other corporate act done with their knowledge, consent, or co-operation. As directors are trustees holding the property of the company, they are bound to properly direct and supervise its affairs. The duties of a board and its officers are correlative; on the one hand the duties are directive and supervisory, and on the other they are executive. There are many matters that occupy the middle ground, where it is difficult to fix responsibility. The board is responsible for all things that enter into its rights and duties, but it is not expected to watch the routine of every day's business, or observe the particular state of business transactions unless there is special reason; nor is it to be held for sudden and unforeseen derelictions of executive officers, nor for other accidents which there was no reason to apprehend.

The board of directors is not an executive body, but a deliberative, legislative, appointive and supervisory one. It authorizes and instructs the officers and agents of the corporation to carry out the measures it desires carried out. As was said, the authorization, to be legally complete, must be made at a *bona fide* meeting of the board, and not alone by the assent of the members separately. When officers carry out measures not legally authorized, they may be held liable for any resulting damage or loss to the corporation, if the board, at a subsequent proper meeting, does not authorize or ratify the acts and refuses to accept the benefits of them. Any act which the board could have authorized, and which has already been done, it can make binding on the corporation by ratification at a meeting subsequent to the time of the act; also, if it accepts the benefit of such act with knowledge of the facts, a ratification by acquiescence will be implied without formal retroactive authorization.

Frequently the directors for the first year are named in the articles of association. If they are not so named by agreement of the incorporators, they are elected by the stockholders. The stockholders may also elect the officers, but they usually delegate that right to the directors. As the direct general management of the corporation is in the hands of the directors, it is right that the directors should choose the executive and other officers who manage the details, that the officers may be responsible to the directors and removable by them. "The ministerial agents [officers, not directors] of a corporation, not holding for fixed terms, defined and limited by statute or by-laws, may be removed by the body that chose them, subject only to a right of action against the corporation if such removal resulted in a breach of their contract of employment." (Thompson, 10 Cyc., p. 935.) They are dischargeable as any other employe, without assignment of cause, without notice, and without trial, at the pleasure of the directors. If there be a fixed term of office, removal must be for cause. (Thompson, Corp., §§ 804, 805, 820. See also Clark and Marshall, Priv. Corp., § 666.) The same formal procedure should be followed in removing an officer for cause (incompetency, violation of employment contract, etc.), as in removing directors. Corporations rarely have trouble in dispensing with officers, as a determination to remove shown on the part of the directors will usually bring a resignation, which will relieve the board from the necessity of formal action. In cases of emergency, an officer may be restricted or almost shorn of dangerous power by the passing of by-laws or resolutions. The relations of directors to their corporation and of officers to their corporation are given to be different in this, that the directors are considered to have a franchise in their office, since they usually receive no compensation, or only a nominal compensation, for services, while the paid officers sustain more the relation of employe to employer.

In general, the powers of the officers of a corporation are derived from the power which elects or appoints the officers, and depend upon the terms of their agency. The powers may be conferred by the articles, by-laws, or resolution, or implied from the character of the office itself. An office, in itself, confers no power to control corporate property or to bind the corporation by contract, or otherwise. The duties and powers ordinarily given to the several officers of a corporation, and performed and exercised by them, are generally understood, and acts done and contracts made in pursuance thereof are binding on the corporation. When an officer is about to take an unusual step, one which he is in doubt as to his authority to take, and which may involve liability on his part if he does not have the authority, he should seek consent and authority from the board of directors so as to be relieved of personal responsibility. Corporation officers should be familiar with statutory liabilities imposed on them by the parent state and the state in which the principal business is conducted.

A corporation will always have a president, secretary and treasurer, and there may be, and usually are in large corporations, one vice-president or several vice-presidents, assistant secretaries and treasurers, a managing director or general manager, and an auditor and a counsel. Directors, as directors, are not ministerial officers, as has been shown. Those who fill positions minor to officers and directors are classed as agents and employes. In small companies it frequently happens that the same persons are stockholders, directors, and officers, and they manage the business. The one in whom is reposed the management of a business and the counsel are not always officers, but they are if the by-laws make them so or if the duties assigned to them might give that interpretation. Two offices may be held by the same person where it is desirable. The president and vice-president should be chosen from the members of the board of directors, as they are the presiding officers of the board as well as of the stockholders. It frequently is advantageous to select some of the other officers from the board, particularly the secretary, but it is not necessary. Statutes sometimes regulate these matters, and should be referred to. When officers are elected, they may take office and take charge of the meeting in which they are elected, or they may be installed in office at the close of the meeting and assume their official functions from that time.

A corporation should take care that no one acts for it in the capacity of officer, director, or agent who is not duly authorized. If it permits such person to openly act for it, the person is a *de facto* officer, director, or agent, whether or not he was regularly elected or appointed, and the corporation is bound by his acts.

When officers and directors are to receive a pecuniary compensation for services, it should be so provided in the by-laws, as they are not ordinarily entitled in law to compensation for the regular duties incident to their positions.

§ 47. **Directors' Meetings.**

Directors' meetings are regular and special. The frequency of the regular meetings depends upon the necessity for close supervision of the corporation's affairs. In some business corporations the directors meet once a month; in others they meet once in three months, once in six months, or even only once a year. Usually directors must meet in the state under whose laws the corporation was organized, but some states provide by statute that the directors may meet outside the state if the articles or by-laws so provide. Provision for notice of meetings should be made in the by-laws, and a given number of days specified as the period that shall elapse between the time the notices are sent and the time of the meeting. The time and place of the meeting are, of course, necessary inclusions. Every director is entitled to a proper notice of meetings, and if the notice of a meeting as provided by by-law is neglected, a director can render void all action taken at that meeting. The secretary sends the notices of meetings, and should present to the meetings and record in their minutes the proof that proper notices were given. If all the directors are present the necessity for previous notice may be avoided by having all the directors sign an acknowledgment of notice and waiver of service of notice, which must be recorded in the minutes. In nearly all cases, the president of the corporation is the presiding officer of the board; but, unless the statutes or articles provide to the contrary, the board may elect any one of its members chairman. Likewise the secretary of the corporation is usually the most convenient person to be secretary of the board. The order of business at the principal annual meeting, which is the first meeting after the election of directors, may be as follows: (1) Calling the roll; (2) reading and approving minutes not previously disposed of; (3) reports of officers and committees; (4) election of officers; (5) unfinished business; (6) new business; (7) adjournment. A majority of all the board (the number provided in the by-laws) usually constitutes a quorum for the transaction of business. Chancellor Kent says: "There is a distinction between a corporate act to be done by a select and definite body, as by a board of directors, and one to be performed by the constituent members. In the latter case, a majority of those who appear may act, but in the former a majority of the definite body must be present, and then a majority of the quorum may decide. This is the general rule on the subject." Statutes may be so constructed as to modify the rule. All directors present at a meeting may vote on any matters submitted; but a director cannot, as a stockholder may, delegate to an agent by proxy authority to represent him at a directors' meeting.

There should be provision in the by-laws for the calling of special meetings of the directors, either by the president or by a given number of the directors, or by both. Notice should be sent by the secretary giving the time, place, and purposes of the meeting. All the purposes of the meeting should be given, else action on other matters than those specified may be rendered invalid if a director interested in those matters failed to attend because he had no information that they would come up for consideration. If all the directors are present, they may act on any matter, whether it was mentioned in the notice or not, and, also, any director may waive the right to proper notice. It is customary to include waivers with the notices when an emergency exists and a meeting is necessary at such a time that would make it impossible to issue notices the given length of time before the meeting as specified in the by-laws. Frequently it is better not to specify such a time for notice of special directors' meetings, especially where the board is small and where it can be easily and quickly called together.

§ 48. The President.

The president of a corporation is the presiding officer at meetings of the stockholders and directors, and is frequently the chief of the executive agents of the corporation, i. e., in the smaller corporations he is often the active general manager of the regular business with delegated power to employ and discharge assistants. In such cases he has the power of a general agent in the customary transactions of the business of the corporation. In large corporations where there are vice-presidents, a chairman of the board of directors, and a chairman of a finance committee, the resulting differentiation of powers and duties modifies the president's work and leaves him to perform whatever special duties are assigned to him by articles or by-laws or are in the line of his duty as he has been accustomed to perform it. The chairman of the board will, of course, relieve the president of the duty of presiding over the deliberations of the board, and the chairman of the finance committee will likely perform some of the functions relating to financial matters that the president would otherwise attend to. Some of the presidential duties may be distributed among the vice-presidents. It should be remembered that the distribution of duties is, to a large extent, prudential, or dependent on circumstances perhaps outside of business—as, for instance, where a president can give only a small part of his time to a corporation's business and much of his work is performed by some other officer. When a president is entrusted with certain duties and receives a salary, he is bound to exercise proper care that the duties are performed, else, in case of neglect and of loss to the corporation, he may be held liable. In his fiduciary relation he is bound to employ the powers delegated to him for the benefit of the corporation and must not use them for his own personal gain and advantage.

Besides the duties of presiding over meetings of stockholders and directors and signing certificates of stock and minutes of meetings over which he presided, some of the duties commonly performed by a president are the signing or countersigning of notes, checks, bills, contracts, and other instruments executed in the carrying on of the customary business of the corporation, and all special contracts, liens, deeds, and other special instruments which are ordered executed by the directors. All such contracts and other instruments made on behalf of the corporation by the president will bind the corporation. In the absence of the treasurer, the president usually may indorse drafts, checks, and other negotiable instruments, either for deposit or collection. When he is acting in a managerial capacity, he makes an annual report of the affairs and condition of the corporation, and calls the attention of the stockholders or board to any matters demanding their notice. He may also make or sign the necessary reports to state officials. The compensation of the president depends upon the amount of time he gives to the business of the corporation, and the real value or market value of his services, the responsibilities he is assuming, his influence and other incidental matters too numerous to mention. If he is not active, he may draw no salary at all. The president should have executive capacity when he has managerial work, and should always be a man having a reputation for cleanness and enterprise in industrial or commercial life.

§ 49. **The Vice-President.**

The vice-president is supposed to keep in touch with the affairs of the corporation, and in the absence of the president, to act in his place. The same powers and principles that govern the conduct of the president apply to the vice-president acting in his stead. In many small corporations, the office of vice-president is an inactive one, the incumbent having nothing to do but serve on the board of directors, if he is a member of that body. In the larger corporations, the vice-president may be an active official, having the superintendence of some particular part of the corporation's business; or there may be first, second, third, etc., vice-presidents, each having specific duties connected with the regular business. Such vice-presidents may receive such compensation as their services merit; an inactive vice-president will usually receive no compensation. The office is frequently merely an honorary one, offered to some prospective stockholder to secure his more active influence, or it is given to some person of influence whose name counts for much in the community or line of business in which the corporation is engaged.

§ 50. The Secretary.

The common duty of a secretary is the conduct of the routine business of a corporation. He is the custodian of the corporate seal, and of the corporation books; he keeps and reads the minutes of the meetings of stockholders and directors; issues calls for meetings; notifies officers and directors of their election; issues, seals, transfers and cancels certificates of stock, and sometimes signs them with the president (when it is not provided that the treasurer shall sign); closes the transfer book at proper time; affixes the seal to formal instruments, and attests with his signature; prepares the reports which are required to be made to state officials; prepares statistics for reports to be made by the president to the stockholders and directors; attends to the correspondence of the corporation or has supervision over it; and performs all duties imposed by the directors, or which custom in transacting the corporation business has made part of his duty. All contracts made within the range of his customary work will be binding on the corporation. The secretary should be a man of perspicacity, energy and honesty, and should have a general knowledge of elementary corporation law and be familiar with corporate practices, should know something of commercial law and practices, should be familiar with the general principles of corporate finance and accounting, should understand parliamentary law, and be familiar with the corporation statutes of the state under whose laws the corporation was organized and of that in which the principal business is located.

The secretary of a corporation is usually an information bureau for the other officers and directors.

§ 51. The Treasurer.

The general financial agent of a corporation is the treasurer. He is the routine financial manager of the corporation, and has charge of money, notes, and any fund securities belonging to it, as well as of its books of account. He sees to all expenditures and requires receipts and vouchers therefor, and issues receipts for moneys paid to the corporation. If he does not perform this work himself, as he seldom does in large corporations, he superintends the clerical force that does the actual work. Hence, he should be familiar with the principles of corporate finance, and should have an accurate and comprehensive knowledge of bookkeeping and accounting. In many of the small corporations, the treasurer is the bookkeeper. Usage often determines the power of a treasurer to sign notes or to contract on behalf of the corporation. But it is a matter of prudence to define his powers and duties somewhat explicitly in the by-laws. The treasurer commonly signs certificates of stock; indorses for deposit or collection checks, notes, bills, and other negotiable instruments; signs, with or without the president, as the by-laws provide, the checks of the corporation (he should sign with the corporation name, "per James Sully, treasurer"); joins with the president in the execution of all instruments that have to do with the corporation's financial proceedings; makes reports of the corporation's financial condition to the annual meetings of stockholders, and so keeps in touch with the financial affairs that he is ready at a moment's notice to state to the directors the assets, liabilities, or details of any financial transactions of the corporation. If there is a finance committee, some of this work may have been assigned to it to the relief of the treasurer. A treasurer should always deposit a corporation's funds in the name of the corporation. Where a treasurer's position is a responsible one, on account of large transactions and the handling of much money, he is usually requested to give bond. It is better that such bond be secured from a reliable and responsible fidelity insurance company. Such company will keep closer watch over the treasurer's performances, and will take more pains to detect anything irregular in them, than a personal surety, and it will also be more fearless and energetic in prosecuting actions against a defaulting treasurer. The compensation of a treasurer will vary from that of an ordinary bookkeeper to that of an expert financial manager.

§ 52. The Managing Director and the General Manager.

Sometimes a board of directors of large corporations will appoint one of their number a managing director, whose duties will supplement those of the president. When a president who serves in a managerial capacity is often absent from the business, a managing director is a convenience, as he can take the president's place and perform those ordinary duties pertaining to the regular conduct of the business that the president would perform. His duties should be defined in a by-law, or in the resolution by which he is appointed, when his office is temporary. Sometimes there is a managing director where there is also an active president, and in such cases his duties should be specified carefully, so that he will not come into conflict with the president.

The general manager of a corporation attends to the supervision of all the active commercial or industrial business, such as the manufacturing and selling of goods, etc., in distinction from the corporate business. His duties may be assigned him by the directors or the president, and he reports to one or the other. When he is a director, his office is not much different from that of a managing director. Otherwise the position is not so high as that of managing director, as it is more that of an employe, depending upon the contract of employment.

§ 53. The Counsel.

Large corporations retain a salaried lawyer, who works under the direction of the directors or the president. The advantage of a regularly employed attorney to counsel with the officers and directors, to prepare contracts and agreements, and to inspect contracts and agreements sent for acceptance, is apparent enough. Much unnecessary litigation may thus be avoided. The counsel is usually paid a retainer of from one hundred dollars up, according to the advice necessary to be given and work to be done, and is paid extra for all litigation in which he takes part during the year. (See Miscellaneous, The Corporation Lawyer.)

§ 54. **The Auditor.**

Many of the largest corporations employ an auditor who superintends the bookkeeping, the financial system and reports, and all matters of corporate and business statistics that usually come within an auditor's or accountant's purview. He should not be a partisan of any stockholder or group of stockholders, and should be the most independent employe of the corporation. If a regular auditor is not employed, a corporation may employ an expert often enough to certify the books and accounts. (See Part VII.)

An auditing committee, composed of stockholders or directors, unless there are members who are familiar with bookkeeping and accounting practices, is inefficient for the needs of large corporations. Moreover, their work is usually done very superficially, and also they may be interested in making a form of report which will not disclose all the facts that should be shown. More general use should be made of the permanently employed or the occasional professional auditor.

§ 55. **Committees.**

As has been noted, a board of directors does not generally have the power to delegate the right to exercise discretion which is vested in it. Therefore, the duties of such standing committees as executive and finance committees, which are composed of members of the board and may have supervision respectively of the general business and financial affairs of the corporation, should be clearly defined in the articles or by-laws. The more specific provision for the duties, and the less discretion in their performance, the better, since the law on this subject has not been adjudicated to any great extent. It is not an uncommon practice, however, among the directors of business corporations to delegate part of their discretionary authority to committees. In New Jersey it has sometimes been provided by charter that an executive committee may exercise all the powers of the board whenever a quorum of the board is not present at a board meeting, as well as at times when the board is not in session.

PART V.

CAPITAL STOCK AND BONDS.

CAPITAL STOCK AND BONDS.

§ 56. The Nature of Capital Stock.
57. Full Paid and Partly Paid Stock.
58. Bonus and Watered Stock.
59. Usual Kinds of Stock.
60. Registrars and Transfer Agents.
61. Incidents of Issue and Transfer of Stock.
62. Bonds.

§ 56. THE NATURE OF CAPITAL STOCK.

As there is no consensus of legal opinion on the exact definition of capital stock, and as the term is frequently used interchangeably with capital, capitalization, etc., the definition framed here is made to accord with what seems to be the general tendency of the courts and what strict accuracy from a knowledge of corporate practice would dictate. Capital stock and capital are distinguishable. The capital of a corporation is, on the initiation of a corporate enterprise, the total of the amounts of money paid or property given in by subscribers to shares of stock, or agreed and secured to be paid or given in by them; when the corporation has been running some time, it is these amounts of money or property in themselves, or the money represented by property purchased, together with all the undivided profits or gains realized in conducting the business, and used in conducting the business, less all the losses and depreciations incurred in operation. Money derived from the sale of bonds is sometimes included in the capital. In financial practice, capital belongs to the corporation considered as a legal person or entity, and not to the stockholders, or shareowners. It may change from time to time; it is the net corporate property at any given time.

Capital stock is, in the statutes providing for the organization of private corporations, the amount authorized by the charter as the limit-up to which the capital of the corporation may be extended by stock subscriptions. This amount is fixed. More strictly, as a matter of equity, capital stock is the right to that part of the mentioned amount which is made vital and active by being subscribed and paid to the capital account. Under the first definition the capital stock has merely a potential value, while under the second definition its value is actual. Capital shares are the personal property of the several stockholders. They are in the nature of what is known to law as a "chose in action," a personal right to a thing of which one does not have possession, which right, under certain contingencies, may be enforced by law. The corporation owns the capital in a sense, but holds it for the benefit of the shareholders. Capital stock that is paid for, paid-up stock, is a liability of the corporation to the shareholders. The value of the capital stock depends upon the value of the net corporate property, capital, and this value may be more or less than the face, or par, value of all the shares. Profits and gains are part of the capital till they are distributed, as in dividends, for instance, among the shareholders. Dividend rights belong to capital stock, and, in this enlarged view, capital stock is the total amount of the issued rights to share equitably in the net capital, or assets, of the corporation, and also in the net earnings as they accrue and are distributed. Capital stock is not tangible property, but it is usually represented tangibly by the certificates of shares. The right to the shares of property is never realized except on the dissolution of the corporation and on the distribution of its assets, but it may be practically realized by selling the right to another for the value of the share or shares which it represents. The sale is made by formally transferring the certificate of stock to the purchaser. Shares of capital stock are generally subject to levy and execution as is other personal property.

A corporation for profit must have capital stock, and a corporation not for profit may or may not have capital stock. But a business corporation for profit or a capitalized corporation not for profit may exist without share ownership in the absence of any statutory or charter provision to the contrary, as in a case where the rights of the members in the capital stock pass with their rights as members, as sometimes happens in lodge organizations.

§ 57. FULL PAID AND PARTLY PAID STOCK.

Stock is full paid if it has been paid for at par in cash or in full equivalent to par value in property or services, where this latter form of payment is permissible. If full par value has not been given for the stock it is only partly paid. Stock issued "full paid and non-assessable" in good faith and without fraud is in no way obligated to the corporation or its creditors, except in some states for labor, nor to the corporation for assessments imposed, except in such states as Minnesota and California, where a liability is imposed on all private business corporation stock as on bank stock, making the holders thereof liable in excess of the par value of the shares. If there are not restrictive statutes, stock may be issued at such a price as the corporation directors, on authority of the stockholders, desire. Stock is frequently issued in exchange for only a part of its par value and, in the absence of a statute constituting such stock "full paid and non-assessable" when so issued, the holders thereof are liable to creditors of the corporation in the difference between the amount paid and the par value thereof, but they are not liable to the corporation itself. This applies to original purchasers and subsequent purchasers who know of the fact that the stock is only partly paid, but does not apply to subsequent purchasers for value who are innocent of the fact that the stock is only partly paid. These last are not liable to creditors nor to the corporation. When stock is issued full paid and non-assessable, the certificate should so recite.

§ 58. BONUS AND WATERED STOCK.

Where there is no constitutional or statutory prohibition a corporation may give away common stock with bonds or preferred stock as a "bonus"; or it may issue stock under an agreement whereby the holder is to pay less than the par value. Such stock cannot be held liable to the full par value as between the holder and the corporation or as between the holder and stockholders who acquiesce in the issue. The transaction is binding on the corporation and on acquiescent stockholders. But if the stock is an original issue on the formation of the corporation, the transaction is a fraud against creditors who have given credit on faith that the stock is full paid. If the corporation becomes insolvent, the stock issued as a bonus or only partly paid will then be held liable to the full amount of the par value. This is the general and best opinion, though in New York it has been held (Christensen v. Eno, 106 N. Y. 97, 12 N. E. 648) that the liability of a shareholder depends upon his contract with the corporation, either express or implied, or upon a statute fixing the liability, and, in the absence of contract or statute, one who accepts shares as a gift does not commit a wrong against the creditors nor make himself liable to pay par for the shares in case of corporate insolvency and debt. But it is generally true that those who became creditors before bonus or partly paid stock was issued, and those who become creditors with knowledge of the facts cannot recover against such stock.

In the absence of statutory permission, the only case in which it can be generally regarded as safe to issue bonus or partly paid stock without liability for the full par value is when such stock is issued at its marketable value by an active corporation in order to pay its debts and save itself from insolvency. In some states the peculiar wording of the statutes will make this unsafe. In the case of Handley v. Stutz (139 U. S. 417; Wilgus's Cases), an active corporation issued bonds, and to make them marketable, gave as a bonus an amount of stock equal to the face value of the bonds. The price fairly represented the market value of the stock and bonds. The court said: "To say that a corporation may not, under the circumstances indicated, put its stock upon the market and sell it to the highest bidder, is practically to declare that a corporation can never increase its capital by a sale of shares, if the original stock has fallen below par. * * * No one would take stock so issued at a greater price than the original stock could be purchased for, and hence the ability to negotiate the stock and to raise the money must depend upon the fact whether the purchaser shall or shall not be called upon to respond for its par value." The opinion of the dissenting judges is in line with certain decisions which are against the view that the holders of such stock will not be liable to creditors, on the theory that the stock is not fully paid.

§ 59. USUAL KINDS OF STOCK.

The power of incorporators to issue share rights in capital and the privilege of being exempt from liability as partners are in the nature of a franchise granted by the state. In the absence of a provision to the contrary, or because of a special provision for classes of stock, the members of a corporation may issue more than one kind of stock, preferring one or more classes as to dividends, and as to the distribution of capital on dissolution. Where stock is not classified, all the stock is common.

Common stock is that which commands dividends and shares in the distribution of assets on the dissolution of the corporation, without preference. It has been said, also, that it exercises proprietary corporate powers without preference, but, when preferred stock is barred from voting, this part of the definition is not exact, as the common stock is then preferred in the exercise of proprietary corporate powers.

Preferred stock commands a given dividend which must be paid or provided to be paid before any dividend can be paid on the common stock; usually, on dissolution, it commands its full face share in the assets before any distribution is made to the common stock. Unless there is express provision to the contrary, preferred stock shares equally with common stock in all dividends above the dividend assigned to the preferred stock, after the common stock has received a dividend equal to that provided for and paid to the preferred. Where it is desired to limit the preferred stock to its preferential dividend, the right to participate further must be specifically denied. It is not usual, however, for preferred stock to participate in dividends beyond the specified per cent. Also, unless there is express provision to the contrary, preferred stock shares equally with the common stock in the distribution of assets on the dissolution of a corporation, without any preference. But preference in this respect is usual, and, when desired, should be specifically stated in the articles. The common arrangement is to provide for the payment of the par value of the preferred stock and arrearage of dividends before anything is paid to the common stock. There must, however, be statutory authority, direct or implied, in order to be able to create a preferred lien on a corporation's property. That is, when the law has generally defined the rights of a holder of stock, no modification of those rights can be made by granting preferences to one class of stockholders over another without express statutory authority. But when the statute does not define the rights and liabilities of stockholders, it has been held that they may, without such express authority, be divided into the classes and preferences given at the time the stock is issued. Sometimes preferred stock is made by statute to carry the right to a preference in the distribution of assets, as is true of the New Jersey law.

There may be one or more classes of preferred stock, drawing the same per cent. or different per cents of dividends, the dividend on the first preferred to be paid in preference to the dividend on second preferred, and so on. When preferred stock draws a certain dividend and participates further in the earnings together with the common stock, as, for instance, when the preferred stock shall draw 6 per cent. and shall share with the common stock in all earnings distributed as dividends above 6 per cent. on each class, it is usually not denied the right to share in surplus assets above those required to satisfy all stock claims on the dissolution of the corporation. Preferred stock dividends are commonly 5, 6, or 7 per cent.

Preferred stock can claim no dividends unless there is a profit being made by the corporation, i. e., unless there are net earnings. Net earnings for a given year are the gross receipts less the cost of operating a plant to earn the receipts, which includes all productive expenses and the cost of restoring the plant to the condition it was in the first of that year. This definition permits one to determine whether the plant is being run at a profit. But from these net earnings must be deducted the interest on debts and such non-productive expenses as damage claims paid. The remainder is the real profit of the shareholders out of which they are entitled to dividends. But, if the property which is the security for the funded debts of the corporation deteriorates in value so that the corporation is not able to renew the debts at maturity, that is a justification of refusal to pay dividends on preferred stock. In general, the right to preferred dividends is subject to the just discretion of the directors of the corporation; and, further, the right is usually confined to the profits in each particular year, i. e., the dividends are not chargeable to the profits of the next succeeding year. Or, as it is usually expressed, the dividends are non-cumulative. When this principle is remembered in connection with the principle that shareholders are entitled to dividends out of the earnings, it is apparent that directors are not justified in withholding dividends on preferred stock if the corporation property is able to maintain the funded debt. But it has been held that the preferred stock contract may be expressed in the way of a guaranty of dividends and that such guaranty will make them cumulative. It follows then, that dividends on preferred stock may be made either cumulative or non-cumulative in the preferred stock contract, and that the intent should be clearly expressed in the articles and in the contract as printed on the preferred stock certificates.

It may be provided, as mentioned, that dividends on preferred stock shall be either cumulative or non-cumulative; that is, the dividends, when not paid in any given year or series of years, shall or shall not accumulate as a charge against the profits of the corporation and shall or shall not be paid in full before any of the profits are distributed as dividends on the common stock. It may also be provided that preferred stock may be bought in, redeemed by the corporation at par or with a premium of several per cent. above par, after a certain time limit. Preferred stock may not be redeemed when so doing would impair the capital stock or defeat the rights of creditors. When redeemed, preferred stock is still a part of the capital stock of the corporation, but it no longer has rights in the dividends or assets of the corporation. With the consent of the stockholders, however, it may be reissued, and it will then resume its former rights. The redemption contract clause should read so that the redemption is discretionary with the directors.

Unless express provision is made to the contrary, preferred stock carries the same voting and other proprietary corporate powers as common stock. But ordinarily the right to vote and the right to take part in stockholders' meetings is denied, the right to manage the company being reserved for the holders of common stock against the right to receive preferred dividends on the part of the preferred stockholders. Sometimes it is provided that preferred stock shall not vote so long as preferred dividends are paid regularly; or that, if they are not paid for two or three successive years, then the preferred stockholders shall have the right to vote. There are as many forms of preferred stock as there are conditions attached to its issue. All such conditions, all preferences, limitations and special rights should be expressed on the certificates of stock, as they are in the nature of a contract between the corporation and the preferred stockholder. If a person buys preferred stock on whose certificate the conditions are plainly stated, he is estopped from asserting ignorance of the conditions, and cannot on that account recover against the corporation.

Preferred stock may be provided for in the original articles, or by consent of all or a certain proportion of the stockholders, as the statute or articles provide. Its issue cannot be made by authority of a by-law unless under statutory authority. There is sometimes a statutory limit on the amount of preferred stock that can be issued in proportion to the amount of common. In New Jersey, Indiana and Ohio it is provided that the aggregate amount of preferred stock shall not exceed double the amount of common.

Guaranteed stock is the stock of a corporation which is leased to another corporation, the lessee guaranteeing the dividends on the stock of the lessor. Cumulative preferred stock is sometimes unwisely called guaranteed stock; the specific use of the term should be confined to the definition given.

Convertible stock is preferred stock which is issued as being redeemable in bonds of the corporation selling it, or in cash, at the option of the holder. There must be express statutory authority for issuing convertible stock, as in New Jersey. Bonds convertible into stock have long been known, but the opposite arrangement is recent.

Founders' shares are a new class of stock in America, and are not in general use. They are more common in England. To this class of stock belong the surplus profits of a corporation, or a portion of the surplus profits, which remain after paying fixed dividends on the preferred and common stock, and, perhaps, after setting aside also a given amount of the profits for the reserve fund, whenever a distribution of the surplus profits is determined upon. Suppose a corporation is organized with $500,000 capital stock, $300,000 of which is preferred and $200,000 common. Suppose $50,000 of this common stock is set aside as founders' shares, and after 6 per cent. is paid out of the net earnings as a dividend on the preferred stock, the surplus profits are to be divided equally between the common stock and the founders' shares. This would make the founders' shares worth four times as much as the common stock on the basis of earnings. Founders' shares may be issued under the New Jersey law, but under the laws of most of the other states they are now impossible. There is no particular advantage that can be derived from their issue that cannot be had from the judicious issue of common or preferred stock. Founders' shares are commonly used as compensation for promoters or others who, by lending names or influence, have forwarded the interests of a corporation.

Deferred stock claims dividends after the payment of dividends on some other class of stock, or after certain obligations or liabilities of the corporation are paid. It is an unusual form.

Special stock is a kind thus far issued only in Massachusetts. Cook on Corporations says: "Its characteristics are that it is limited in amount to two-fifths of the actual capital; it is subject to redemption at par after a fixed time, to be specified in the certificate; the corporation is bound to pay a fixed half-yearly sum or dividend upon it as a debt; the holders of it are in no event liable for the debts of the corporation beyond the amount of their stock, and the issue of a special stock makes all the general stockholders liable for all debts and contracts of the corporation until the special stock is fully redeemed."

The foregoing are classes of stock distinguished from one another on account of the conditions that attach to their issue. Stock is further divided in kinds with reference to the status of the stock with reference to its issue, *per se.*

Unissued stock is the capital stock authorized in the articles of incorporation, or that part of it which has not been exchanged for a consideration, and in which no person has yet acquired property rights. It merely represents the right to admit new stockholders, and has no value in itself. It has no active stock rights, and is not an asset of the corporation.

Issued and outstanding stock is that part of the capital stock which has been bought and paid for, and to which the original purchaser or the purchaser from him is usually entitled without further pecuniary obligation to the corporation. It is supposed to carry with it an interest in the property of the corporation equal in value to the consideration paid for the stock. This is not always true, and, in fact, it is usually true only when all the issued and outstanding stock has been issued at the same price, and the assets of the corporation have remained equal in value to the amount received for all the stock issued. The equality of interest and value of the consideration paid therefor is shortlived in any corporation. As soon as money is put into manufacturing property and machinery the value of the property and machinery is usually less than the price paid for it until the success of the project as a money-making investment is demonstrated. That is, if it were necessary to sell the property and machinery at a forced sale, it would usually bring less than was paid for it. So if the business project is a failure, the worth of stock is likely to be much less than was paid for it. Further, if the project turns out to be an exceptionally good money maker, the growth of the plant and business will rapidly put the value of the interest represented by stock much in excess of what was paid for the stock, and if a large dividend is being paid on the stock the market price may be still higher than the value of the interest as represented by the assets as shown by the books. The rights of issued and outstanding stock are not merely potential, but actual, according to its class and the conditions of issue as defined in the statute, in the articles, or in the other authority under which it is issued.

Treasury stock is issued and outstanding stock that has come into possession of the corporation which issued it by purchase, donation, or in liquidation of a debt. If it has been issued full paid it remains so, even if sold again below par, and it is considered an asset of the corporation for bookkeeping purposes. But such stock, so long as it is held by the corporation or its representatives as treasury stock, neither participates in dividends nor in the meetings of the corporation as voting stock, though it still represents a paid-for interest in the property of the corporation. The creation of treasury stock is often made a device for selling stock below par and at the same time constituting such stock legally full-paid. A corporation will be organized for the purpose of taking over the business or property of another corporation, or of individuals, and the new corporation will issue its stock full-paid in exchange for the business or property of a certain valuation. Then the seller will give back to the buyer corporation part of the stock as treasury stock, to be disposed of as the directors may determine. Or it may be put in the hands of trustees for sale or disposition under certain conditions, or as they or the directors may determine. Such stock is usually sold below par, or it is given to well-known men for the use of their names and influence in promoting the welfare of the business, or otherwise, and such stock is legally full-paid and exempt from all liability. It may also be given away as a bonus with bonds or preferred stock with the advantage over common stock that there is no liability.

Treasury stock may be assigned to the corporation by name, or to "the treasurer of" the corporation, or to the trustees who are to hold the stock. The secretary makes the usual transfer on the stock book and cancels the certificates turned in. When the directors sell the stock again, the treasurer, if the stock is in his name or in the corporation's name, orders the secretary to issue new certificates to the purchasers. When treasury stock is in the hands of trustees it does not appear on the books of the corporation until it is sold, when the certificates are assigned to the purchasers and the money is turned over to the treasurer.

Overissued stock is that issued in excess of the total amount of capital shares authorized by the articles of association. Such stock is void under all circumstances.

§ 60. REGISTRARS AND TRANSFER AGENTS.

In the history of corporate practices there have been many fraudulent overissues of stock, so that many honest corporations have sought to reassure the public and to guarantee it against fraud by appointing reputable trust companies to act as registrars and transfer agents for their stock. The reputation of the trust company has a great deal to do with the guarantee that the stock issues are regular, for, if it is inclined to be unscrupulous, it can assist a corporation in defrauding the public. A thoroughly reputable trust company will not undertake to register an issue of stock unless it is convinced of the good repute of the directors and the manager of the corporation. Where the directors of a corporation are but little known, but are known favorably to the officers of a trust company which is widely and favorably known, the sale of the corporation securities is often greatly assisted by the appointment of that trust company as registrar and transfer agent. Some of the stock exchanges, including the New York stock exchange, insist that stock shall be signed by a trust company or other reputable financial agency as registrar before they will list the stock of the corporation seeking to have its securities listed. The specific duty of a transfer agent is to make the transfers of the stock of a corporation, being satisfied of their regularity and freedom from fraud. The specific duty of a registrar is to sign the new certificates of stock presented by the transfer agent as evidence that there is not an overissue of stock and that the transaction is otherwise regular, and to keep a register of such stock, with the name and address of the owners, at the registration office. It is apparent that the work of transfer agent and registrar may be performed by the same financial agent or by separate agents for each duty, or that the corporation itself may do the transferring, employing an agent for the sole duties of registrar. It stands to reason that a transfer agent or registrar, when employed independently, should be independent in fact, and should have no collusive connection with the corporation by which employed. As at present conducted, the work performed by registrars is not as much of a safeguard as it should be. Mr. Jordan J. Rollins has said: "According to the practice in New York, a registrar seldom requires more than the exhibition of a cancelled certificate of stock for a given number of shares, and the presentation therewith, either by the issuing corporation or by its transfer agent, of a new certificate for the same number of shares in the name of the transferee of the cancelled certificate. Thereupon the registrar signs the new certificate without requiring other evidence of the correctness of the transfer." As transfer agents and registrars are generally appointed and assume their work in pursuance of a resolution passed by the directors of the employing corporation, the relation of principal and agent obtains without specific and detailed contract beyond the mere carrying out of the resolution permitting the employment and, perhaps, arranging for the compensation. The lack of specific conditions under which the work is to be performed, and the present looseness of conducting the work, make the field of transfer and register agency one worthy the attention of those engaged in bettering business methods.

Owing to the comparative indefiniteness and lack of differentiation in the work of these agencies, their duties and liabilities have never been fixed clearly either by law or custom. On a principle of the law of agency a principal corporation has been held to be liable to a good faith purchaser for value in a case

LIBRARY OF THE

where a registrar fraudulently allowed an overissue of stock. This was in the well-known case of the New York and New Haven Railroad, which had $3,000,000 capital represented by 30,000 shares of stock. Schuyler, who was president of the company and its transfer agent, sold and issued certificates representing an additional 20,000 shares, or $2,000,000. The courts have not handed down decisions which would warrant the assertion that the trust company or other agency acting as registrar and transfer agent could itself be held liable for delinquencies or fraud in performing its work. But, as the purpose of employing such an agent is to guarantee safety and regularity, the agent should be held liable for neglect. There are certain decisions which support this view (Jarvis v. Breach Co., 43 N. E. 68, 31 L. R. A. 776; Windram v. French, 24 N. E. 914, 8 L. R. A. 750). It has been held that when the word "countersigned" has been used by the registrar, the registrar is liable, because countersigning is attesting the authenticity of an instrument (Fifth Ave. Bank v. Railroad Co., 33 N. E. 378, 19 L. R. A. 331). From the fact that a corporation may be held liable for fraudulent issues of stock, it follows that the stockholders may be protected by having a trustworthy agent distinct from the officers of the corporation, employed for the purpose of registering and transferring stock. When the duties and liabilities of transfer agents and registrars are clearly defined by judicial decisions or statutes, their services will be an important part of business mechanism. Mr. Rollins, a New York lawyer, who was quoted before, has suggested that the powers of trust companies, with reference to their acting as registrar and transfer agent, be expressed in the statutes as follows: "To transfer, register and countersign certificates of stock, bonds and other evidence of indebtedness of corporations, with liability to such corporations and to the owners or holders of such certificates of stock, stock, bonds or other indebtedness of corporations solely for the negligence or willful misconduct of its officers in reference to such certificates of stock, stock, bonds or other evidences of indebtedness, or in the appointment or employment of its agents, clerks or employes dealing therewith." Because both corporations and their agents have tried to avoid the responsibility for illegal issues and transfers, a law of this kind would assist largely in distinguishing the respective liabilities of the corporation and its agent.

§ 61. INCIDENTS OF ISSUE AND TRANSFER OF STOCK.

As was said, certificates of stock are the tangible evidence of rights to a certain share in the capital, franchises and dividends of a corporation. Certificates should not be issued, therefore, till the consideration for which they are given is paid in full. A corporation should issue receipts to a subscriber for stock for part payments, and, when full payment is completed, should exchange the certificates for the receipts. Receipts may be made transferable, if that is desired. If a person presenting a certificate for transfer is without doubt the legal owner, he may demand and enforce a transfer. The corporation or its agent should insist upon the surrender of an old certificate when a new one is to be issued in its place, and should write or stamp "cancelled" on its face so that it may not thereafter get into the hands of a *bona fide* holder for value. Returned certificates should be pasted to the stubs from which they were detached. When a certificate is presented by an assignee it will contain, after the assignment, the signature of the previous owner. In order to identify the signatures of stockholders who may thus assign their stock and not appear in person to make the transfer, a card system of the signatures of stockholders in large corporations is sometimes kept by the secretary or transfer agent of the corporation. The certificates should be completely filled out, on issuance, with the name of the purchaser and the number of shares, etc., and should contain the signatures of the proper officers and the corporate seal. The stub should also be completely filled, and the one who receives the stock certificate should receipt for it on the stub. These are precautionary measures, since it is not absolutely necessary that a stockholder have a certificate to be entitled to vote and receive dividends. But on account of the liabilities to which a corporation may be subjected through carelessness or fraud, these matters should be carefully attended to. They are part of the duties of the secretary. When a certificate is lost or destroyed, and the corporation is called upon to issue a new one in its stead, the fact that the new certificate is issued in place of the old one which was lost or destroyed should be written on the face of the new. But bebefore issuing a new certificate there should be fairly reasonable assurance that the old will not turn up in the hands of a good faith purchaser for value, and the corporation should require an indemnity bond to be given by the person by whom the new certificate is owned, protecting the corporation from loss in case the old certificate appears in the hands of a *bona fide* purchaser. Lost certificates that have been assigned in blank are particularly dangerous. A lost certificate should be advertised for at intervals for several weeks; this may cause its return or prevent a dishonest holder from selling it. It is always best, when a certificate is lost and a new one is demanded, that the issuing officer get authority from the directors to issue the new certificate. Should the corporation suffer loss, the officer might otherwise be held responsible and liable for any loss. If the certificate lost represent a great value, it is sometimes advisable for the directors to refuse to issue a new certificate. The owner of the lost certificate will then take the matter to court, and the court will usually order a new certificate issued, which will relieve the corporation from liability. The rights of trustees and other third persons to make transfers, and of courts to order transfers, should be carefully investigated, else the corporation may be held liable for illegal transfers.

Certificates of stock are not negotiable instruments, though they are sometimes called quasi-negotiable. The law of negotiable instruments does not therefore apply to them. But the protection of the doctrine of estoppel has been thrown about them to such an extent that the good faith purchaser of stock is as safe under almost all circumstances as if he had purchased a promissory note. This is especially true where, through the negligence of an owner, a certificate with an assignment in blank has come into the hands of a good faith purchaser for value who has had no notice of the loss or theft. Here the first owner is estopped from asserting his rights. A stockholder is required to exercise reasonable care that his certificates are protected from loss or theft, and, if they are lost or stolen without neglect on his part, the general rule of law will apply that his right is superior to that of any other person who may have acquired the certificates for value in good faith.

§ 62. BONDS.

Bonds are variously classified, according to their security, purpose, the contracts of payment, redemption, etc. The security of the bond will be mentioned in the wording of the bond. It may be either a personal contract or a lien on property, or both. A corporation may issue with or without specific security, a bond which is indorsed or guaranteed by another corporation, and the indorsement or guarantee has the same effect as the indorsement or guarantee on a note. Such bonds are known as "guaranteed" or "indorsed" bonds. Bonds, as well as notes, may be assigned without recourse, or the liability may be specifically limited. Personally secured bonds have as a resource for payment on execution, whatever property the making and indorsing or guaranteeing corporations have that is not given as lien security, or that remains after the specific liens are satisfied. It makes no difference whether the liens are given before or after the personally secured bonds are issued, the satisfaction of the liens must come first. Personally secured bonds are therefore not usually as safe an investment as lien bonds.

There are many kinds of bonds based on lien security. They usually bear the name of the kind of property against which the lien runs. The property is mortgaged, and the mortgage is usually executed to some disinterested party, such as a trust company or banking house, as trustee, which holds the security for the bond purchasers and administers it in case of necessity. Sometimes the mortgage is executed to one of the bondholders as trustee, for himself and all others interested. A reliable trust company, however, is safer and better as trustee.

A *general mortgage bond* has for security a mortgage on all the properties of a corporation.

A *real estate bond* has for security a mortgage on specific real estate, usually separated from the other property of the corporation issuing it. Railroad land grants from the government are often used in this manner by the railroads receiving them.

A *blanket mortgage bond* has for security all of several properties or parts of a property, on all or certain of which previous mortgages have been given. It is, therefore, more or less a secondary bond as to security.

When several independent corporate properties are consolidated, each having a bond issue outstanding against it, it may be desirable to raise funds to consolidate the debt against them as well as to provide means for financing the new corporation. A mortgage is then given against the consolidated properties, *consolidated mortgage bonds* are issued, the old bonds are paid and the surplus funds are used as the corporation requires.

Divisional bonds are a kind of railway bond, having as security the property of a division of a railway system. A "division" is a smaller road which has become part of a consolidated railway. Divisional bonds are bonds which have not been refunded into consolidated bonds.

The foregoing bonds have for security a mortgage on some form of real property. A bond issue may likewise be based on personal property. *Equipment bonds* are of this kind. In order to provide funds for the purchase of machinery or other equipment, a company requiring such will make arrangement with the manufacturer or other seller to take payment in bonds secured by a mortgage on the equipment purchased. These bonds are often underwritten and put on the general market. As they usually run for a short time and bear a good rate of interest they find a ready market.

The *collateral trust bond* is also based on personal property. It has for security stocks, other bonds, or mortgages deposited with a trustee, who holds a contract which provides for the sale of the securities in case of delinquency in payment of principal or interest. This kind of bond is the same as a collateral note.

The contract of trust or collateral security usually permits the maker to substitute securities of equal value for those deposited, if the trustee assents.

Another personal property bond is the *car-trust bond.* A car-trust is a business concern which buys cars from the manufacturer and leases them to a railroad. The railroad pays a certain periodical rent for a given time, after which it comes into absolute ownership of the cars. The car-trust company issues bonds whose security is the cars leased to the railroad, and whose payment depends upon the payments of rent by the road.

Debenture bonds are of several kinds. Debenture means debt, and has no special significance as applied to this kind of credit instrument. Those debentures issued by financial companies differ from those issued by railroads. The former are a kind of collateral trust obligation, bonds and mortgages owned by the company being deposited as security for payment of principal and interest. These debenture bonds are issued to obtain funds for the purchase of other bonds and mortgages, which in turn may be used as security for another debenture bond issue. Railroad debentures are a last lien on the property and income of a road, being junior to other mortgages, and indeed are often unsecured. Payment of interest depends on the surplus net earnings of the road. While financial company debentures are generally good investments, railroad debentures are often poor. They are, in fact, similar only in name.

The *income bond* has its principal secured by a mortgage on the property of the company issuing it, but its claim is junior to the claims of other mortgage bonds. The interest depends upon the surplus net earnings or income, whose amount is determined by the board of directors of the issuing concern.

An *assumed bond* is strictly an obligation of a subsidiary corporation, whose stock or property has been acquired and is possessed by the main company. In this bond the subsidiary corporation assumes the payment of principal and interest. These bonds are similar to a guaranteed bond and a divisional bond, and are sometimes spoken of by the latter name. A divisional bond, however, is usually a direct obligation of the main corporation. Sometimes the main corporation takes care of an assumed issue without being directly obligated to do so.

Improvement bonds, purchase-money bonds, and bonds having various other names are issued. Among other names that apply to various issues, some of the more common kinds are as follows:

A *participating bond* is a rather new kind which is entitled to participate in the profits of the corporation beyond the fixed rate of interest.

A *joint bond* is issued and assumed by two or more corporations. The Great Northern-Northern Pacific joint collateral trust fours, secured by deposit of C. B. & Q. railroad stock, are the joint obligation of the two controlling companies.

An *extended bond* is an issue which has matured, but by agreement with the owners has been extended for a further period instead of creating a new issue to succeed it.

A *refunding bond* is a bond issue created to pay and cancel a maturing issue of bonds, and to supply additional capital, and, further, usually, to reduce fixed charges.

A *prior lien bond* may or may not be a first security on the property of a corporation. It may be a junior issue merely prior to some other junior issue. For example, the Erie railroad prior lien fours are simply prior to the general lien fours, both being part of an issue of a first consolidated mortgage.

An *underlying bond* is a term used to express the precedence in security of one issue of bonds over another. It may or may not be a first mortgage bond.

The name a bond bears is not so important as the contract under which it is issued. It is seen that the name of a bond means nothing as to value or security. The careful investor will always study the contract, and the careful and honest corporation will always have framed such a contract as will bear investigation. The investment status of any bond depends upon the value and stability of the property it represents and the character of the corporation issuing it. There may exist at the same time different kinds of bonds with the same property as security. The intending bond purchaser should know all about the various obligations of the concern in which he may be financially interested. The Rock Island Railway Company, for instance, has some seventy bond issues on the system, of almost all degrees of value and security. "There are first mortgages of very inferior worth, and bonds not mortgages at all but yet of high standing," says Mr. Moody. "How easy it is, therefore, to err in passing upon bonds on this system unless a good deal of general fundamental knowledge is first acquired."

With reference to the kind of money in which bonds are payable, they are "gold" bonds, or "legal tender" bonds. The contract of payment in the former reads that they shall be payable "in gold coin of the United States, of present weight and fineness." This is the best guaranty of the stability of the money payment value of the bonds that can be made. Legal tender bonds are those payable in any kind of money that is legal tender for the payment of debts.

"Coupon" bonds are so called from the coupons, or separate interest notes which are attached to the bond certificate. When an instalment of interest becomes due, the coupon calling for it is "clipped" from the other coupons and is presented for payment in the same way as any other note. Coupon bonds and the coupons are payable to bearer. "Registered" bonds have the number of the bond, the amount, and the name and address of the owner, registered at the office of the issuing concern or at the office of a "fiscal," or financial agent, such as a trust company. The contract for the payment of interest is continued only in the wording of the principal obligation, and payment of interest is made by check to the registered holder. Registered bonds are not passed by delivery, but by transfer recorded in the books of the registrar by the registered holder. Doubt as to the question of ownership in case of theft, loss, fraud, etc., is minimized in the case of registered bonds. A bond may be issued so as to be either a registered or coupon bond, as in the case of the Minnesota, Saint Croix and Wisconsin Railroad Company's five percent. income mortgage gold bond. The interest and transfer contract reads as follows: "This bond draws interest from the first day of May, A. D. 1885, until the same is paid, at the rate of five per centum per annum, payable at the office of said Company in the city of New York and State of New York, on the presentation and surrender of said coupons as they severally become due according to their tenor. It and each of its coupons shall, unless this bond is registered, pass by delivery; but if registered, then by transfer, recorded in the books of the company, by the registered holder. After registration of ownership is certified on this bond by said Company's Register, no transfer, except and until recorded in its books, shall be valid, unless the last previous transfer shall have been to bearer. This bond is subject to successive registrations and transfers to bearer at the option of its lawful owner; but after such registration and certification thereof on this bond, interest will be paid to the registered holder only upon a proper voucher therefor."

"Convertible" bonds are those in which it is optional with the holder at a certain time or under certain conditions to convert his bond into some other form of liability, i. e., into stock or some other kind of bond.

"Redeemable" bonds are those made payable, at the option of the issuing company, at a certain period or periods before the time of maturity. Thus, a fifty-year bond may be made payable at the option of the maker at a certain time in any year after thirty years have elapsed. The bondholder cannot make a demand for payment until the end of the fifty years, but the company, if it choose, may pay the bond any time after thirty years.

PART VI.

STOCKHOLDERS.

STOCKHOLDERS.

§ 63. **Stockholders: Rights, Powers, Liabilities.**
64. **Stockholders' Meetings.**

§ 63. STOCKHOLDERS.

The relations of stockholders to a corporation are contract relations. The stockholders contribute their funds, property, or services, and, in return therefor, they are entitled to share in the corporation's profits. The contract is between the corporate person, or corporation, and the stockholders. The fact that the stockholders have power to choose the directors does not alter their relations to the corporation, as this power is only a practical provision of the law for the selection of agents who are to represent the corporation and carry on its business.

The general rights and powers of stockholders are to meet at stockholders' meetings; to propose matters of corporate or business interest for consideration, and to discuss and vote on any matters submitted; to elect directors, officers and agents for the corporation; to participate in the profits of the business; to keep the corporate property and funds from being diverted from their original purpose; to inspect, personally or by attorney, the books and records of the corporation (this right is much modified by recent legislation and by judicial decisions); to act on any changes proposed to be made in the corporate purposes, or generally to amend the articles; to make, amend and repeal the by-laws; when the corporation increases its capital stock, to subscribe for new stock in proportion to the number of old shares held; if the corporation becomes insolvent, to have the corporate assets applied to the payment of the corporation's debts; to bring about a dissolution of the corporation; to share, on dissolution of the corporation, in any assets that are left after the debts are paid. Stockholders commonly have the right to have certificates of stock and to sell, assign, or transfer them at will. The power and rights of the stockholder depend upon the terms of the contract recited in the stock, there being restrictions and qualifications of rights in the special kinds of stocks such as preferred, guaranteed, etc. The specific rights of common and other stockholders will be gathered from what has been said in previous departments of this book. When a stockholder's rights are infringed he may sue at law or in equity, according to the facts in the case.

The general liabilities of stockholders are for unpaid subscriptions to stock, or for the balance on partly paid stock*; for dividends declared from the capital of the corporation; and sometimes, for debts due to employes. Certain contingencies govern the liabilities of stockholders and the statutes of the state under which the corporation is organized should be consulted to determine the liabilities. In California and Minnesota there are liabilities to twice the par value of the stock, the same as in national banks.

The exercise of corporate powers by stockholders is through the determination and registering of the will of the majority of the stockholders. "This is required to be done by appropriate means [vote or consent], at a meeting of the stockholders, called with prescribed formalities, and attended by such a number of them as the charter declares to be a quorum. The majority may express their consent that a specific act be done, or, after it is done, that it be held valid; or that consent may be implied from the appointment of general officers or agents, within the scope of whose powers and duties that act lies."*

---

* For exceptions to the rule that the holders of shares not fully paid are liable to creditors in the difference between the amount paid and the par value of the shares, see Van Cott vs. Van Brunt, 82 N. Y. 535, where the payment of a corporation debt. in good faith, by the issue of stock. is upheld; Handley vs. Stutz, 139 U. S. 417 (an interesting and significant case), where is upheld the right to issue stock at less than par to save a going concern; Christensen vs. Eno, 106 N. Y. 97, where a person to whom shares have been issued as a gift is not held liable to creditors. Cook on Corporations says, citing Handley vs. Stutz, "And it is now established law that an embarrassed corporation may, upon an increase of its stock, put such stock upon the market and sell it for the best price that can be obtained, and that the corporation may throw in as a bonus a certain amount of full-paid stock to the purchaser of its bonds, and there will be no liability on the stock." Great care should be taken in pursuing a course of this kind that there are the proper constitutional or statutory conditions precedent to such action, and a corporation lawyer familiar with the cases on this subject should be consulted to approve or condemn the action.

A quorum at a stockholders' meeting is such a number of the shareholders of the corporation as is necessary to bring together the required amount of voting stock to transact business. Statutes, articles, or by-laws usually provide that the holders of a majority of all the issued shares shall constitute a quorum. Then by vote of a majority of a quorum, the corporate transactions are determined and the corporation is bound. The common-law rule is that those of the stockholders who actually assemble after proper notice constitute a quorum for the transaction of business, even though they are a minority of the whole number and represent only a minority of the stock. Statutes reading "a majority of the stockholders" mean a majority in interest rather than in number. It takes two persons to constitute a "meeting"; one person holding a majority of the stock cannot hold a meeting to which other stockholders are not invited, nor bind them or the corporation by his informal acts, though a person owning all the shares may bind his corporation by contracts made in its name.

It will be noted that stockholders, in their capacity of stockholders, have little to do with the active business affairs of the corporation. The basic authority is theirs, but after defining the powers of directors and officers and delegating authority to them, their influence and control are somewhat removed. The importance, then, of judiciously selecting directors, officers, and agents and of defining and properly limiting their powers by by-law is apparent.

---

* Benjamin Trapnell, "The Logical Conception of a Corporation," in Clark on Corporations, p. 643.

§ 64. Stockholders' Meetings.

Stockholders' meetings are regular or special. The regular meeting for the election of directors, the hearing of reports, and the transaction of any proper business is held annually, and the time and place of meeting are usually provided by by-law. Generally, such meetings must be held in the state in which the corporation was created, but there are sometimes statutory provisions permitting the meetings to be held elsewhere. In all cases, however, the *first* meeting of stockholders should be held in the state of the corporation's creation; the first meeting is recognized as being held for the purpose of doing constituent acts, electing directors, adopting by-laws, etc.

Stockholders are entitled in law to due notice of all meetings, and, in case the number of days' notice is not provided by statute, it should be provided in the articles or by-laws. Special notice of the kinds of business to be transacted at a regular meeting is not necessary, but if there is any business of an unusual nature, any proposed radical changes of corporate or business concern, to come before the meeting, mention of them should be made in the notice. Notices, written or printed, should be sent to the stockholders ten or more days before the meeting, and in some states further notice is required by publication. The circular notice should be sent to the last-known postoffice address of each stockholder. Notice should never be given by publication alone, as it might be made the least sure way of reaching stockholders. If the by-laws provided only for this method of notification, publication might be made in a paper of limited circulation, where few would see it, and a body of stockholders, enough to constitute a quorum or to satisfy a statutory requirement, might legally pass measures which would otherwise be defeated. Notwithstanding what has been said of the regular officers serving at stockholders' meetings the fact of the law is that the stockholders have the right to elect any of their number chairman and secretary of their meetings, unless otherwise provided by statute, articles or by-laws. When the question of specially approving or censuring any of the acts of directors or officers is to come up, the better plan is to elect a chairman and secretary other than those of the officers who would otherwise serve. It is customary for the president to call the meeting to order, and also for him to preside in the regular course of business. If such contingency as was mentioned arises, the stockholders may elect a vice-chairman to serve during the consideration of such questions if the articles do not specify that the president or vice-president shall preside. If such provision is made by by-law, the by-law may be suspended. Where no provision is made in the articles or by-laws as to who shall serve as chairman and secretary of stockholders' meetings, such positions are filled by election at each meeting. And if those are absent who would, according to provision, fill the positions, then the stockholders elect a temporary chairman, or vice-chairman, and a temporary secretary. By-law provision is often made for the succession of presiding officers, viz., president, vice-president, treasurer and vice-chairman. The secretary, if present, is thus left to perform his proper duties.

A convenient order of business may be provided by by-law, but it should be made directory and not mandatory. The following is suggested for the regular annual meeting: (1) Selection of chairman and secretary; (2) proof of notice of meeting; (3) calling of the roll; (4) reading and disposal of previously unapproved minutes; (5) reports of officers and committees; (6) election of directors; (7) unfinished business; (8) new business; (9) adjournment. The secretary should have the transfer book, or stock record book at the stockholders' meetings, so as to be able to determine who has the right to vote, should any question occur. The right belongs to stockholders of record, and the by-laws should so specify. Common stockholders will, of course, have a vote for each share of stock, and preferred shareholders will have the same right unless it has been provided that the preferred stock shall be non-voting. The bondholders may be permitted to vote, if the corporation has been organized under the laws of Delaware or Nevada and provision is made therefor. Voting will be conducted according to the by-laws or rules of order adopted. The election of directors, which occurs at the regular annual meeting, should be by ballot. In the larger corporations two or three inspectors are usually appointed by the president to conduct the election. It is better that they be elected by the stockholders, however. In some states they are required by law. They take oath that they will conduct the election impartially and faithfully, receive and count ballots and make a formal signed testimony, with personal seal affixed, of the results of the election. If desired, the inspectors' certificate or report of election may be sworn to by them before a notary. The secretary will have charge of certificates of election, and will file them with other important papers of the corporation. In some states cumulative voting is permitted, whereby a minority of stockholders may concentrate their votes on one or more directors and thus secure representation on the board. This is about the only protection offered minority stockholders under the laws of any state. Cumulative voting permits each stockholder to multiply the number of shares he holds by the number of directors to be elected, and to distribute these votes among all of the several directors to be voted for, or to cast them all for one or two or any number less than the whole number to be voted for. When a shareholder cannot be present at a meeting he has the right to be represented by proxy; that is, he delivers to an agent or attorney a written, signed, and witnessed power of attorney, which is evidence that such agent or attorney may represent the shareholder according to the terms of the instrument. In order to better insure a quorum at an important meeting blank proxies are sometimes included in the envelope with the notice of the meeting. A proxy may be revoked at any time by the maker, and where they are not limited by statute they may be issued to cover any period of time or any particular meetings. Proxies expire with their time limit or with the adjournment (*sine die*) of the meeting for which they were issued; but they hold over for an adjourned (postponed) meeting, when given for the meeting of which it is a part. Proxies may be made in the name of any person whom the maker desires to represent him. Proxies are frequently signed and witnessed without including the name of the proxy (the agent or attorney), and are thus sent to the secretary in blank.

At the meeting the secretary fills in the name of any person present. This insures representation by a proxy. When proxies attend a meeting they present their credentials to the secretary and vote in all respects as original shareholders.

Special meetings of stockholders are called for particular and usually pressing purposes. The place, time and all the purposes of such meetings must be given in the notice. Notice should be given a reasonable length of time previous to the meeting, as is specified usually in the by-laws, and no meeting can legally be held without such proper notice, unless all the stockholders sign a waiver of notice or, by their presence and participation in the meeting, imply such a waiver. Provision is made in the by-laws for the calling of special meetings, either by the president, the directors, or a certain fraction of the stockholders. The "call" for a special meeting is given to the secretary, who notifies the stockholders.

PART VII.

CORPORATE BOOKKEEPING, AUDITING AND ACCOUNTING.

CORPORATE BOOKKEEPING, AUDITING AND ACCOUNTING.

§ 65. Corporation Bookkeeping, Auditing and Accounting.
66. A Corporation's Books.
67. The Minute Book.
68. The Stockholders' Ledger.
69. The Book of Stock Certificates.
70. The Transfer Book.
71. The Dividend Book.
72. The Subscription Book.
73. The Instalment and Instalment Scrip Books.
74. The Corporation Calendar.
75. Books Required By Law.

§ 65. CORPORATION BOOKKEEPING, AUDITING AND ACCOUNTING.

Connected with the office of every large and intricate business there are clerks and bookkeepers, and usually an auditor and accountant in one person. The work of these several kinds of employes differs greatly. As an expert government accountant puts it: "While it is true they all deal with figures, there is as much difference in the character of work performed by one, compared with that done by another, as there is between the light of an electric lamp and that of a candle. The accountant is the electric light of the world where figures are involved, while the clerk for the time being must content himself to be the candle."

The clerk is usually a mere scribe or copyist, transcribing into books whatever is given him to copy therein, frequently knowing little or nothing of the relevancy of the entries he makes. His work of recording transactions is largely automatic, and he needs no special knowledge of bookkeeping to fit him for his work. His qualifications are accuracy in transcribing and a clear, distinct, legible handwriting.

The bookkeeper is one of the most important employes of any business corporation. Upon him the directors and business manager rely for information as to the financial status of the corporation and data as to the business done. A competent bookkeeper for a large corporation must have knowledge and experience beyond the affairs of ordinary business. A mere graduate of a "business college," who is without experience and business insight, will not do. It requires more ability and knowledge to be a bookkeeper than to be a clerk, a fact many business men have learned after sustaining financial losses that were caused by wrong bookkeeping. The first qualifications of a competent bookkeeper are a thorough knowledge of double entry bookkeeping and of the business whose transactions he is recording on the books. Whatever additional knowledge he may have of business and financial practices, the better fitted he will be for his position.

A step in advance of the bookkeeper is the auditor. There should be no real difference in the qualifications of a competent bookkeeper and an auditor, and their functions differ only from the standpoint from which they are performed. As a rule, auditors are more advanced in bookkeeping methods and in knowledge of business and financial law and practices than ordinary bookkeepers. They are really advanced bookkeepers. But whereas the bookkeeper's business is to keep a daily routine account of the business done, a statistical account of the corporation's transactions, the auditor's work is to review the work of the bookkeeper, to inspect it to see that it is correct. The auditor examines the books and accounts to discern their correctness; compares charges with vouchers; examines parties and witnesses; allows or rejects charges; states whether expenditures made for conducting business, for additions to the plant, etc., have been charged to the proper accounts; and, in reporting, states how nearly the books correspond with the facts. His presentation of the facts will constitute a verification of the bookkeeper's statement, or will be a revision of it. The courts frequently refer to auditors for adjustment of accounts involved in litigation, and, in some jurisdictions, their reports are final as to facts unless vitiated by fraud or gross error. In large and intricate businesses where there are a number of bookkeepers, or departments between which pass funds or materials and vouchers therefor, an auditor is usually employed to keep straight and verify the work of bookkeepers and department heads. When a business is so small or simple that it is not worth while to keep an auditor constantly employed, and where an occasional audit is desirable, an auditor from an audit company, which has competent men for this very purpose, may be employed periodically, say once in six months or a year, to go over the books and accounts of the company.

The accountant is a degree higher than the auditor and must possess all the qualifications that the auditor possesses, and he *must* know also the general principles of commerce and finance and the detailed conduct of the businesses with which he is engaged and their relation to other businesses. His work covers a broad and diversified field, and no business or financial knowledge he possesses will be superfluous. His work differs from that of the auditor as does the work of a surgeon from that of a physician. His characteristic work is dissection, analysis, while the distinctive employment of the auditor is inspection and classification. An accountant may go considerably beyond the general books of a company. Beyond the statistical books of the company's transactions, which are kept by the bookkeeper, he prepares books statistical of business facts which are valuable and necessary to be known. He estimates the cost of production to the minutest detail, and figures all the sources of profit and loss, discovering leaks the books do not show, and suggesting improvement in conduct of business. His work meets that of the general manager. He is the head bookkeeper and auditor and the business statistician upon whom the manager relies for much of his assistance. He is a discoverer of business facts and the ultimate judge of the significance of business facts. Expert accountants have been frequently employed as business managers, and, when the managing heads of large corporations die, the accountants often succeed to those positions, as, in the larger companies, often do also the corporation counsels.

In most corporations the functions of auditor and accountant are performed by one person. There are all degrees of competence among auditors and accountants, and, before employing either, a corporation should demand that the person it employs shall show a certificate of competency from a reliable university, college or school of audit and accounting or from a state which gives the degree of C. P. A. (certified public accountant) after state examination. As the value to commercial and public interests of honest, competent, independent auditing and accounting has come to be recognized, a few of the states have passed laws regulating the practice of the profession to the extent of enabling competent accountants to distinguish themselves from the incompetent ones. New York, Illinois and some other states prohibit an accountant from using the title C. P. A. unless he has passed an examination held under state supervision (under the supervision of the state universities in the states mentioned). The examinations cover the theory of accounts, practical accounting, auditing and commercial law. There are usually preliminary requirements, also, as, for instance, in New York, where the applicant for the full degree must be at least twenty-five years of age, of good moral character, and must have had sufficient preparatory education, and three years' satisfactory experience in the practice of accounting, one of which was in the office of an expert public accountant. Any accountant having a certificate from a state having such laws is likely to be competent to undertake any work in his line, but the accountants' acts generally have an exemption clause. This clause permits accountants who have been practicing in the respective states on their own account for more than a year before the passage of the act to have the degree of C. P. A. generally without examination. So, in employing a C. P. A. it may be worth while to inquire whether he received his degree by examination or by exemption, and, if by the latter, to try to determine his ability, or other firms' estimate of his ability, by asking a list of large commercial or financial concerns whose accounts he has audited. Any of these concerns may be called on for a confidential opinion as to the satisfactoriness of the accountant's services. If an accountant is ever proved to be guilty of being bribed or of other fraudulent or unprofessional conduct, his degree of C. P. A. may be revoked. All the states should have certified public accountants' acts. For an independent audit, no person interested in the corporation, directly or indirectly, should be employed. The corporation should at all times beware of the bookkeeper out of a job who is professing to be an expert accountant. It should also beware of the man who "swells up" and puts bookkeepers and office employes out of countenance with him. Since the work of expert accountancy has some detective features, it is usually necessary that the accountant be amiable and that he acquire confidential relations with those whose work he is inspecting.

To prevent collusion between the manager and bookkeeper for the purpose of committing a fraud on the corporation a board of directors often will employ an auditor. Also, the auditor is frequently the direct representative of stockholders who want to be sure their corporation is conducted accurately and honestly. Keister's Corporation Accounting and Auditing says: "One of the most unpleasant situations in which an auditor can be placed is when he is compelled to notify the stockholders that the company is not in a prosperous condition, and that the books are inaccurate, etc. Should he find the books to be carelessly and inaccurately kept, and false statements prepared for the stockholders, then he must positively refuse to give his certificate [of sound condition]. Usually an auditor has very little trouble to induce the directors to write off a sufficient amount for depreciation when the company is prosperous, but when a period of depression in trade arrives the directors will, without any intention of acting dishonorably, present a statement showing a profit equal to those of former years, while in reality it is considerably less. If the directors refuse to amend the accounts * * * the auditor should prepare for the stockholders a full report of the accounts, setting forth clearly therein the points at issue between the directors and himself, and sign the accounts subject to such report." The auditor "should not allow himself to be influenced by the directors' arguments, when he is confident his ideas would, if carried out, be a benefit to all concerned. Directors are usually men of ability, integrity and honor, and when such is the case an auditor will find his duties easy and pleasant to perform. Every facility will be afforded him, questions will be promptly and correctly answered; he will have ready access to all books, securities and documents; any suggestions he may offer as to systematizing their methods of account will be adopted, if proved to be advantageous. If bookkeepers or directors have neglected their duties, performed fraudulent operations, or have purposely prepared false statements and accounts to submit to the stockholders, the auditor will then find every possible obstacle thrown in his way to prevent his discovering and exposing their deceptions. When such is the case, the auditor has a very responsible, difficult and unpleasant task before him. However, he should not allow himself to be nettled, tired out, or hurried into certifying accounts until he has required all questions to be answered, and each doubtful item explained to his entire satisfaction. If directors or bookkeepers refuse to answer or explain, the auditor, if he be firm, would refuse to give his certificate, which would place the directors or bookkeepers in an embarrassing position, if they should attempt to appear before the stockholders without it. An auditor should be able not only to audit and verify the books and accounts of a company, but also, if he finds the books are carelessly kept, or if the system upon which they are conducted is cumbersome or such as to require unnecessary labor or time, he should be able to suggest a better method, the adoption of which will probably ensure greater accuracy. The books of many companies are very loosely and unsystematically kept by low-grade, careless and incompetent bookkeepers, whereas if competent, careful help were to be employed, a great deal of unnecessary work might be concentrated into fewer books, or perhaps even be dispensed with altogether. The directors are managers of the company in behalf of the stockholders, to whom they are responsible, and it is important that, in his anxiety to do his duty towards the stockholders, the auditor should be careful not to interfere in the management of the company by insisting on the adoption of any of his propositions as to the system of bookkeeping or other matters. He should endeavor to introduce his improvements by friendly, courteous suggestions, and by putting them forward gradually." "The auditor, before entering upon the duties of his first audit of a company's accounts, would find it greatly to his advantage to secure a complete list of all the books kept, both financial and statistical, with all financial statements, balance sheets, vouchers, and everything connected therewith. He should also obtain a copy of the original prospectus if the company be a new one, also a copy of the charter, articles of agreement and by-laws. A careful examination of these books and documents, together with what explanations he may deem advisable to ask of the officers and bookkeepers regarding the nature of the business and the system of conducting their accounts, will better prepare him to proceed with his audit.

"To enable an auditor to certify to the accuracy of the books and accounts examined, and to make an audit effectual, he should seek to detect and guard against errors of three kinds, namely: (1) Errors of principle, such as are apt to be made by those not proficient in the science of accounts; (2) errors of omission, those items which have accidentally been omitted either on the debit or credit side; (3) errors of fraud, entries intentionally made to defraud and embezzle. The professional accountant and auditor is the servant of the public, and just what the public wants he will be willing to give. If a complete audit of the accounts of a corporation is called for, then the auditor will examine critically each item to detect all errors. But if it is desired only to know what the earnings of the company have been, he will supply merely this information. When an auditor is called upon to make a special examination upon some particular point it is not reasonable to suppose that he will examine or certify to anything but the point in question."

The higher work of auditing and accounting (there is no hard and fast line between the two) is intimately connected with the practices of corporate finance. Thomas L. Greene, in his interesting and instructive book called Corporation Finance, writes as follows on corporation accounting. A careful study of the statement analysis contained herein will be especially beneficial. (This is reprinted here by special permission of the publishers, G. P. Putnams' Sons, New York and London.)

"Evolution in accounting is to be expected the same as in the methods of conducting business. As the transactions become numerous and increase in complexity, a corresponding change in the style of keeping the books is demanded. The principles of bookkeeping are simple, and the various kinds of entries are easy of general comprehension. The practical difficulty lies in making the book set forth the real facts, for it is in judging of the true meaning of those facts that the statistician's art consists, the process of recording the figures, once the facts are agreed upon, being comparatively easy. Moreover, the truth is many-sided; a business optimist will see things favorably and make up his figures accordingly, while an ultra-conservative merchant will seek to have the position of his affairs set forth in the most unfavorable light. There is the more excuse for optimism in corporation matters, for corporations live on, and, having more extended credit, often live down losses which would wreck partnerships; thus it sometimes happens that for his own reputation's sake and because of that good credit, the manager of a large corporation will give to his statements the brightest colors that the circumstances permit. For these reasons criticisms upon corporation reports are so often unfavorable, not because of malice on the part of the critic so much as of abounding optimism on the part of the usual corporation manager. The excuse for such optimism should fairly be taken into account: that there is no hard-and-fast line between fact and credit; that many a railway (for illustration) is helped over a bad place by its credit, and helped safely, whereas if the exact truth were known, that credit might be destroyed and with it perhaps the whole capitalization. A little unwilling forbearance on the part of creditors may bring everything around right and cause no loss.

"Every corporation must adopt such forms of accounts as suit its particular business. They should embrace such a number of separate books as will enable the management to know exactly what is being done in every department and in every detail and at what cost. The collection of statistics costs money, but modern experience is showing that only by accurate statistical knowledge can modern business be successfully carried on. There are good systems containing elaborate provisions for ascertaining the various costs in manufacturing. A corporation should be more, rather than less, exact than a firm. The sources of profit down to the minutest detail should be carefully inquired into; in no other way can the manager know which class of work to encourage, or which to study with a view of improving the process of production.

"In large companies the main account is that of the general balance-sheet, in which are regularly stated the other accounts, such as surplus income, or profit and loss. Thus the balance-sheet reflects merely the changes in the general condition during the year, not the amount of profit. This table or statement is the one upon which the lender of money or the investor should bestow his careful scrutiny, because on the interpretation of the items depends one's judgment as to the solvency of the company. The income table is simply an account of earnings and expenses in totals, together with the proper deductions from the net revenue for the year. Accompanying the income account should be tables explaining in full detail the items there given in gross. There may be a difference of opinion between the management and the bond- or shareholders as to the proper disposal of certain items of expenditure made during the year. There may be a legitimate question whether such items are properly chargeable to income or not; such questions are not only theoretical but very practical, because on their answer often depends whether a dividend is paid or not. For such reasons the report which every corporation ought to make to its shareholders and the public (if the public holds the shares) should contain statements in sufficient detail of every transaction during the year, whether included in the income account or not, in order that every one may form his own judgment on the wisdom of the management and the safety of his investment.

"In cases where the charging of items of expenditure to the income account may be doubtful policy, or where, from the nature of the case, it is difficult to decide such questions, since the answer may depend upon one's opinions as to the business prospects for the future, the profit and loss account may be credited annually with all the surplus earnings of the corporation over and above fixed charges and dividends, or fixed charges only, leaving dividends for the profit and loss table. Against these surpluses may be charged from time to time the cost of unproductive improvements; the deficits of subsidiary companies, which for the time must be met from the revenues of the owning corporation; sums which have been included in the earnings of previous years and which have now proved uncollectible, and in general all items which, in the judgment of the management, should not be deducted from the income of the year, but which good financiering requires should be treated in the accounts in some way as debits, even if temporarily, in order that no inflation in the assets may occur. Such a profit and loss account, if carefully and fully kept, will prove a better test of the earning capacity of the company than the income account, which shows the profits in any one year, for the reason that the former table gives an average of results extending over a number of years.

"One of the perplexing things in the financial management of a large manufacturing or trading company is the treatment of the expenditures for the care of the plant. A depreciation account in some shape must be kept by every company or firm in business. The real estate may decline in value, and in any case, in any progressing concern, money will be required to be spent each year to adjust the buildings more perfectly to the requirements of the business, and yet these adjustments may not add anything to the salable value of the property, and should not, therefore, be added in the accounts to the company's investment in real estate. In like manner machinery will wear out, and is always subject to the danger of new inventions, which may ren-

LIBRARY
OF THE
UNIVERSITY
OF
NEW YORK

der the old machinery practically worthless. It is not easy to foresee when a new outfit will be in part or in whole required, though experience soon places a limit to the number of years in which a given set of machinery may be useful. The proper course in these cases is always the conservative one. The corporation should estimate the probabilities of depreciation always against itself, and set aside yearly such sums from its profits as will suffice to renew so much of the plant as may be expected to wear out or to become useless in a given time. Unless this depreciation fund is carefully thought out and its separation from profits rigidly insisted upon the shareholders of the corporation, and perhaps the bondholders, may in the course of years find that their securities cover a property of little or no business value. If certain sums are not set aside to meet this depreciation, and if for this reason dividends are paid larger than would otherwise be the case, to the extent to which this is carried the returns received by the shareholders are not dividends, but their capital returned to them in piecemeal. These depreciation sums should be real and not merely bookkeeping liabilities of the company to itself.

"Modern corporation accounting requires that in theory a sharp line of distinction should be drawn between outlays which may be considered a part of the regular working expenses and those which are chargeable to an increased investment in the business. In theory the former should be deducted from the gross earnings before the net revenue is determined, while the latter may be met by an increased issue of bonds or shares. There is no doubt of the correctness of this principle in general, but in its practical application it is subject to great modification. English shareholders in American corporations usually insist upon such a system of accounting as divides the expenditures strictly according to this rule; and such indeed is the general practice in Great Britain. By charging to capital every item, small and large, which could by any possibility be construed to be a betterment, the British railways have increased their capitalization until they are dependent for a continuance of interest payments on good traffics year by year. Thus far no harm has come to these railways from this policy, because the fluctuations in the volume of their traffics have been comparatively slight.

"But in the United States more caution must be observed in this matter. From the very nature of the case, business of all kinds in a developing country must be more subject to changes in profitableness than in older countries. The very character of the American people, energetic and progressive, makes business all the more liable to such fluctuations. Bad years follow good years in every line of American industry, although differences are less violent in those trades which are the longest established and among those companies which have been in operation long enough to render their business comparatively stable. The principle, therefore, of charging all so-called betterments to capital and meeting the cost from the sale of bonds or shares, requires modification according to the circumstances of each particular company. The more fluctuating the volume of business has been or is likely to be the more important is it that in one form or another a part of the profits in prosperous years should be withheld from the shareholders and put into the property or set aside for its renewal. To those who wish a working principle to distinguish the proper items to be charged to capital account in the actual management of American corporations, railway and other, the following definition is suggested: No additions to the property, either to the real estate or to the machinery (if a manufacturing company), should be considered betterments and charged to capital, unless they increase the productivity or earning capacity of the plant. Under this rule the purchase of additional equipment for a railway would be an expenditure which could conservatively be met by the issue of bonds or equipment notes, because such purchases would enable a larger volume of traffic to be handled; on the other hand, the replacement of a wooden bridge by an iron one would not be a proper charge to capital, under our definition, unless it was one of a series of expenditures deliberately resolved upon in order that heavier trains could be run and a larger volume of traffic handled, thus increasing the revenues of the company, an increase which our theory demands should be clearly seen to be possible after the various amounts of capital set aside for this purpose had been spent. The same rule might be applied to corporations other than railways; the safe course is to charge against revenues (possibly through the profit-and-loss account) the cost of all additions to the property which do not increase the output or decrease the cost of production. Yet any rule or any principle in so delicate a matter can properly be applied in each case only after a careful study of all the circumstances, including the business of past years and the prospect for the future. With railroad laws in nearly every state permitting unrestricted building, American railroads are constantly liable to attack by competing lines projected for legitimate or speculative purposes. In England companies are not chartered unless a public necessity for the proposed line is shown. In the United States the only safe course for the old roads is to make themselves strong by using a part of their earnings for betterments, thus keeping down the capital accounts. The Pennsylvania Railroad has pursued this policy for forty years, having in that time, according to its reports, paid eighty millions of dollars for betterments out of profits. The foreign shareholders have frequently complained of this policy, though experience has shown it to be an essential element in the present strength of that company.

"On railways the working officers prefer to have included in the operating expenses only such sums as may rightly be grouped under that title. This is a proper request on the part of the superintendents, because they naturally wish that their administration of the affairs of the company should be shown to be conservative and careful. There is another reason also for keeping operating expenses distinct, in that it enables the managers to compare the same items of expenses year by year. If these items are varied by the inclusion or exclusion at times of sums whose proper accountings may be in doubt, the comparison of costs from year to year is vitiated and a valuable test of the efficiency of the operating officers is lost.

"To meet this requirement certain corporations deduct the costs of such betterments as one item from the net revenue often in the income statement. The objection to this course lies in the fact that the sums thus expended are lost sight of, and to the extent to which those items are hidden, the real amount of money spent upon the plant is understated. This is not a mere bookkeeping objection. The railways have found that the real cost of their property is a factor in dealing with legislatures. Laws may be passed in order to reduce freight rates and passenger fares to a point which shall yield the companies a return 'on cost.' The same point may arise at any moment with companies other than railways. Every corporation should therefore so keep its accounts as to show the amounts expended to improve the plant year after year from earnings. A common custom is to apply the annual surplus directly to the construction charges for the year, bonds being issued for the amount of the capital account after thus deducting the surplus. That custom practically adds the surpluses spent for betterments to the capitalization; yet it is a question whether it would not be better to open a comprehensive profit-and-loss account, in which the cost of betterments, as well as other indirect but necessary expenditures, could be included.

"Corporations small in capitalization, but public in their nature and in their stock holdings, often conduct businesses which do not require an elaborate system of accounting. Such companies are often managed by men who are themselves large owners in the property and at the same time skilled in that particular trade. Such men, for their own use or for that of the few other shareholders, need only the simplest statements of the business. It is customary in these small companies to unite the general balance-sheet with the income account, and in their cases this custom leaves no difficulty. On the one side are stated the items of cost of property, the valuation of the tools and machinery, the cash in the bank, perhaps the amount of interest charges and dividends paid during the year, and the working expenses. On the other side of the account, the revenues of the year, the bonded debt and the current debt. Such simple statements are well enough for those who understand the business thoroughly, while the changes in the items from year to year allow of the working out of the various principles which have just been discussed but about which no such sharp distinction need be drawn, as in the case of large manufacturing companies. The original cost of the property can be written off from time to time by adding to the cash on hand a yearly sum before dividing profits; a method of keeping a depreciation account which meets the peculiar requirements of such companies as have only a limited existence, such, for instance, as those which operate a mine where the amount of coal or ore can be estimated within reasonable limits. This sum of money in the bank is then applicable to the extinguishment of the bonded or share capital at the proper time, or may be used for heavy improvement to the property if such should be decided upon. Small corporations which have been formed for family reasons, and whose shares are held by the former partners and not sold to the public, require no special discussion. Their affairs are managed very much the same as under the former partnership.

"The formation and increasing numbers of corporations whose shares are held by the public, and whose business is trading, have led to a more rigid system of estimating mercantile credits and of inspecting the items upon which that credit is based. The evolution of corporation (or partnership) credit is one which must work for the good of all concerned. Such companies yield increasing opportunities for the investment of small sums, and while thus gathering together the little rivulets of capital their managers should themselves be under a moral responsibility to take all the more care of other people's money. It is well, therefore, that the affairs of trading companies should be subjected to such analysis as will indicate their solvency. Preparing statements that will stand examination is one of the best tests to which corporation managers submit as tending to bring the real position clearly before their own eyes and making them conservative in conducting the business and in estimating profits for the shareholders. Following this thought further, below will be found the statement of a non-existing trading company, whose assets and liabilities may be commented upon without reserve. The figures chosen for the purpose are intentionally doubtful and do not, of course, reflect the real position of our small corporations. They have been compiled in this form arbitrarily and for the sake of comment.

"The Blank Trading Company, we will suppose, was incorporated for the purpose of importing and selling fancy goods. The statement below is assumed to have been made December 31 and the inventory to have been taken on the same day. The head office is in New York City, with branches in Boston and Chicago. The president of the company is interested in a retail store in Chicago, to whom the company sells goods. The statement of assets and liabilities of the company is as follows:

THE BLANK TRADING COMPANY.

ASSETS.

A.	Cash on hand	$600
B.	Cash in consolidated and other banks	4,000
C.	Bills receivable (due from customers)	7,000
D.	Bills receivable (due from branches)	10,000
E.	Accounts receivable (due from customers)	63,000
G.	Merchandise (valued at cost)	170,000
H.	Real estate	27,000
J.	Machinery and fixtures	800
K.	Merchandise in bonded warehouses	37,600
	Total	$320,000

LIABILITIES.

P.	Capital stock (preferred)	$50,000
	Capital stock (common)	50,000
Q.	Bills payable for merchandise	47,000
R.	Bills payable to banks	15,000
S.	Bills payable for commercial notes sold	10,000
T.	Open accounts	109,000
V.	Deposits of employes	4,500
X.	Profit and loss	34,000
	Total	$320,000

"Some additional facts are assumed. A portion of the merchandise in warehouses is subject to 'trust receipts.' There is a contingent liability (not shown in the statement) of $20,000 for indorsed bills receivable outstanding. About $12,000 of accounts and bills receivable is acknowledged to be past due. Sales the preceding year amounted to $350,000. Expenses of conducting the business were $60,000, and dividends of 8 per cent. upon preferred and 12 per cent. upon common shares calling for $10,000, were paid during the year.

"First as to the items of the statement. Item A, cash on hand, needs no particular comment. It represents actual money in the hands of the company. In a few instances where deliberate fraud was intended this item has been manipulated. Sometimes the words 'and cash items' have been added, so that uncollectible bills or things of that character could, by a stretch of language, be included. In one instance, where a payment was soon to be made to creditors, a sum of money was borrowed from the bank and called 'on hand,' though the bank by understanding did not allow the cash to go from its possession, retaining it at interest over statement day. But such cases are rare. 'Cash' has a recognized meaning and is correctly accounted for by the vast majority of companies and firms. Item B, cash in bank, also means what it says, being funds of the company on deposit and subject to check; as our company is a reputable one, there is nothing to cause doubt as to these items of cash, A and B.

"Item C, customers' bills receivable, is a small one. If it is necessary to examine into it closely, one ought to know something about the customers whose bills are held and the character of the obligation. Business methods have changed in recent years. It was at one time the general custom to settle all accounts by giving bills. Now, with the exception of a few trades, it is customary to keep running accounts, so that the jobber does not have his customers' due bills as evidences of money owing to him as much as formerly. Of course, an obligation signed by two known firms, though one be small, is better than single-name paper; but such paper is no longer obtainable in quantities. In the present case the item is considered a good asset.

"Item D, covering bills receivable due from branches, must be thrown out. Since the branches are parts of the main house their obligations are also obligations of the main house, and cannot in any way be called assets. The confusion sometimes brought into the matter of the relations between parent houses and their branches, or between the home office of a corporation and its subsidiary offices, is cleared up when we remember that for the general purpose of estimating upon the financial value of shares and bonds the branches and the head office constitute but one concern. If juggling with figures or technical bookkeeping operations is indulged in it is usually done to conceal annual losses or depreciation or else to make the reported condition seem better than the reality. In small trading companies the matter is usually more simple. Instances have been known where the head office, ignoring the real position of its branches, has asked for bills payable to cover only the bookkeeping debts due to the parent company. These bills in the names of the branch were indorsed by the manager and discounted at the bank, the proceeds, of course, making a surprisingly excellent showing in the annual statement. The indorsed bills were not included among the liabilities, because not considered 'direct' obligations. Of course, the exhibit thus made was not a correct statement of the company's real condition. Many trading firms and corporations habitually exclude from their public announcement all indirect obligations of indorsement on the ground that they become a proper charge only when not paid by the maker. This is true so far as the sheet itself is concerned, but the shareholder or bondholder who wishes to learn all the facts should know by a separate statement how large these indirect indorsed obligations are. If out of proportion, it then becomes important to inquire why they exist, and how far the makers are financially responsible. The matter of indirect debts, which may become direct, is one which should have careful consideration in all corporation management. A manager willing to take advantage of bookkeeping technicalities may not speak of contracts which he has made for the purchase of supplies or machinery because dated ahead, and therefore not yet direct obligations; but all such prospective debts must be known if a clear view of the future is desired. The Blank Trading Company acknowledge that they have a contingent liability amounting to $20,000.

"Item E, accounts of customers, is a most important one in trading company's statement, and one equally hard to value. Book accounts and merchandise are the main assets of firms and corporations doing a trading business. If, upon investigation, it is found that these two items can be considered really good assets, the company is justified in expecting credit. The first question to ask concerning accounts receivable is: Are they in proportion to the amount of business done and not in excess of the proportion of the same item among other houses in the same trade? In some trades these book accounts run fairly uniform throughout the year. In others they vary so as to show large amounts at one season with small sums at another; in the latter case one may judge of the item partly by the date of the statement. In the particular line of trade which has been chosen for our illustration the amount of accounts receivable on the last day of the calendar year ought to be quite small, increasing in amount from the first of the year until the conditions are reversed by spring or early summer. Perhaps 10 per cent. of the gross aggregate sales would be a fair proportion to expect for this item in the statement under our assumed conditions. It will be noticed that this item is, therefore, about twice what it ought to be. This fact of itself furnishes a reason for further investigation. It is, of course, possible that these accounts are all good—possible, but not probable. One might inquire how much of these book accounts is overdue and is carried along by the company. If the proportion of overdue accounts in this item is at all heavy, it is an indication either that goods have been too freely sold to irresponsible parties on credit, or else that some misfortune, such as the loss of a staple crop, has fallen upon a certain section of the community in which a large quantity of The Blank Company's goods have been sold, a possibility always to be borne in mind when inquiring whether the credit risks are scattered or practically confined to one or two sections of the country; to be sure not to be caught by any technical differences one should ask how many of these accounts have been extended when due, which, of course, is another way of carrying them. If the company will make up a statement of the customers who are indebted one may obtain their rating from a mercantile agency and see what the proportion is between their capital as thus reported and the obligations in question. If a large part of these obligations figure out to be more than 25 per cent. of the capital of these customers, one may distrust the value of their accounts. In the present case it is stated that the president of the company is interested in a retail store to which the company sells goods. Technically we may expect that the company would not consider the account of this retail store as overdue, and yet it is possible that the swelling of this item beyond the limits customary in that particular line of trade may be owing to the credits granted to this particular store. Perhaps it is found that suspicions are in part confirmed, and that the excess of book accounts over the normal amount is really dead wood carried by the company. One, therefore, in his estimate of values, may put down this item at about $30,000.

"Item G, merchandise. It is so easy to accumulate old and unsalable merchandise that nothing but eternal vigilance can keep a firm free from that error. It is very difficult for the ordinary investigator to make up his mind regarding this item in the company's statements; so much depends upon the business instinct with which the goods are selected and the judgment with which the future of the particular trade is forecasted. Another matter that one should know is, on what basis the value of the goods has been arrived at. In our table it is stated that the merchandise is 'valued at cost,' meaning cost to The Blank Trading Company. In these figures, therefore, is included the manufacturer's profit, which again is affected by the credit of the purchasing company. The open accounts due by this corporation are fairly heavy, and one may reasonably conclude that the merchandise has not been reduced in cost by any discounts for cash. In short, it is proper to refuse to accept this item at its face value in estimation on the solvency of the company.

"In judging of a firm's or corporation's solvency the character of the goods dealt in must always be borne in mind. The difference between staple and fancy goods is one which not only distinguishes one trade from another, but is an important distinction many times to be drawn between a certain set of articles and another in the same store. Groceries may be accepted at almost full value even under the hammer, while silks and ribbons are dependent upon the caprices of fashion from one season to another. In like manner hardware can be taken at a close estimate nearer to its inventory value than can boots and shoes. Wool is a more stable article than woolens; and so we might go through the list. In the present instance it is proper to say that fancy goods are of uncertain value, yet one may assume that The Blank Trading Company deals in the more stable kinds. Nevertheless, it is clear that one cannot assume the full value for the stock of merchandise in question if sold at auction. Balancing all these probabilities, the value of this item may be fixed at $100,000.

"The proper valuations to be put upon book accounts and merchandise in cases of insolvency are constant subjects of study among those whose business it is to loan money to firms or companies either by direct discount or through purchase of commercial paper. Below is a table of liquidating values for five trades, compiled by a banker [James G. Cannon] of experience:

Trades.	Accounts receivable. Percentage good.	Merchandise. Percentage good.
Hardware	72	80
Dry Goods	67	70
Boots and shoes	80	65
Furniture	70	68
Groceries	40	95

"The experience of different bankers and of different trading firms and companies may be more favorable or unfavorable than this table indicates regarding the realizable value of book accounts and stocks of merchandise. It should, therefore, be modified in accordance with the business reputation of the men in charge, or of the traders in the particular section to whom the goods have been sold on credit.

"Item H, real estate, $27,000. This value seems a little high for the comparatively small amount of business done, and should have further investigation. Some small companies, sometimes through carelessness rather than actual error, add the cost of improvement made from year to year to the value of their real estate until this item comes to stand on their books at an amount much in excess of its actual selling worth. In the present instance, it is assumed that this has been the practice, and the actual value of the property by appraisal is $15,000.

"Item J, machinery and fixtures, is a small one in any case and need not be commented upon. If it were an important item, one should inquire as to the depreciation.

"Item K, merchandise in bonded warehouses, $37,600, is subject to the same criticism as regards its real value as that already passed upon the merchandise in stock; that is, for the purpose of questioning the solvency of the company or of putting a value upon its preferred or common shares, if the figures named in the statement are too high. In addition to this, it is noted in the business statement that a part of this bonded merchandise is subject to trust receipts.

"It is common practice for firms doing an importing business to have the foreign goods consigned to a New York City banking house, upon whom also the foreign bills are drawn payable in a certain number of days, varying according to the customs of the different countries. It frequently happens that these goods reach their destination before the bills drawn against them are due. In order that the merchandise may be sold by the importing firm soon after arrival, an arrangement to this effect i made through trust receipts. One form of such receipts give the importing house possession of the goods, but without title the house or corporation guaranteeing to hand the proceeds o the sale over to the banking house. Another form permits the putting of the goods in store under warehouse receipts. These forms are varied according to the circumstances of the case and the credit standing of the importing company; but in whatever way the business is transacted, the meaning is that the merchandise affected is not the property of the importing house, and cannot, therefore, be included in its list of assets. In the present case, something must be deducted from the face value on this account also. It will be dealing generously with this item if it is put down at $20,000.

"By adding up the assets as revalued, we find the total to be $177,400. A glance at the table of liabilities shows a total of $320,000. If from this one deducts for his own purpose capital stock and the profit and loss—the latter item being simply to balance accounts—he finds the actual debts for money to amount to $185,000, or about $8,000 more than the assets as valued in our examination. This means, in effect, that if the company should be wound up, the holders of both preferred and common stock would lose their whole investment and very likely some of the creditors also would not be paid in full. Although according to the statements this trading company paid dividends last year amounting to eight per cent. upon the preferred and twelve per cent. upon the common shares, yet it is clear that no dividends ought to have been distributed until a fund had been accumulated which would balance the possible bad debts and depreciation of merchandise of which we have spoken. The sales are stated to have amounted the preceding year to $350,000. This, it will be noted, is only three and one-half times the capital. There has been some gross mismanagement of the business because modern conditions demand that the capital should be turned over many more times than this during the year. This impression is confirmed when we look at the amount of business expenses, $60,000. Taking the expenses and dividends together, it will be noticed that it required twenty per cent. profits on the small amount of sales to meet them. Few business houses in these days of sharp competition can be assured of the continuance of so large an average gross profit as that at wholesale.

There is clearly something the matter with the affairs of the company. It is possible that some of the excess in accounts receivable already spoken of represents bad debts contracted by the company in order to cover so large an amount of business expenses. To secure so large a percentage of profit they have been willing to sell goods to retail houses with indifferent credit. If these bad debts had been charged off there would have been no dividends and it might have been found that expenses had not been earned.

"Although the valuation put on the assets shows that at forced sale they would only realize enough to pay the creditors, it does not follow that the affairs of the company cannot be retrieved. There is a foundation here for better business. If energy and ability can be secured, in the management, the amount of sales can be doubled and expenses reduced so as to show a great change in the proportion to the volume of trade. If for a while the profits thus realized could be applied to the reduction of the uncertain items among the assets, it is possible that in a few years the aspect of things could be so completely changed as to show that the company was again in a sound condition.

"Complete change in the modern methods of supplying mercantile credits makes it necessary for the lender of money, whether on commercial paper or in the form of bonds or of preferred shares, to rely upon the general solvency of the firm or corporation. This of itself makes needful a more or less thorough investigation into the whole affairs of the borrowing houses. Very likely in this matter as in other lines of business there will arise banks and banking houses which will make a specialty of such loans.

"The same set of facts puts a new responsibility upon the firms and companies which ask for credit. These requests for loans involve two things: first, that the borrowers are honest and mean to pay—which, in the majority of cases, is taken for granted,—and second, that there is a reasonable hope of their ability to pay. This latter point does not concern the honesty of the managers, but depends for its answer upon a wide estimate of business facts. It is, therefore, no reflection upon a borrowing firm or company to have the investor or lender ask for such a statement of their affairs as shall enable him to form a business judgment upon their condition. The asking for investment money on mercantile loans from the banker or investor implies, therefore, that such a statement shall be forthcoming.

"The habit of making such statement for more or less public examination will cause the managers to give even closer attention to the meaning of various items which they are carrying upon their books. In this way conservatism is increased by the conditions of doing business, which now demand, on the one side, large loans of capital, and, on the other, business ability and honesty without sentimentalism."

The foregoing quotations from expert sources are given to suggest the scope and the importance to corporations of the professional services of auditors and accountants. Honest and competent officers, directors, and bookkeepers, or other employes whose work is subject to inspection and supervision, should not think they are under suspicion by the body represented by an auditor, but should be glad of the opportunity to have their work examined and approved by one occupying an independent and disinterested position. Often an accountant will recommend to the stockholders changes in the business that the directors have sought in vain, such, for instance, as an increase in capital stock; or he will agree with the bookkeeper that the system of bookkeeping in use may be greatly improved or that it should be discarded entirely and will make the suggestion to the directors and perhaps secure the betterment. The accountant or auditor should, of course, be independent of all personal influences, a man of established character and firm will. It is almost needless to say that the same qualities should belong to a bookkeeper.

§ 66. A CORPORATION'S BOOKS.

The general account books of a corporation are the journal, cash book, sales book, and ledger, which are the books used by individuals and partnership companies in business. There may be also other auxiliary books which have to do with the general commercial business of private concerns and corporations. All these books are kept under the supervision of the treasurer of the corporation. But there are certain books required in a corporation that are not used by individuals and firm business. These are the minute book, the book of stock certificates, the stock transfer book, the stockholders' ledger, and the dividend book. These books, with the exception of the dividend book, which is usually kept by the treasurer, are kept by the secretary. There may also be, when they are required by the particular circumstances of organization, a stock subscription book, an instalment book, and an instalment scrip book.

§ 67. The Minute Book.

The minute book is a record of the proceedings of the stockholders and the board of directors of the corporation. Its contents consist of the dates and places of meeting, the names of the members present, the business transacted, resolutions passed, important resolutions discussed and defeated by vote, etc. Discussions and remarks of stockholders or directors are not usually recorded unless they throw particular light on an important circumstance or condition. Important correspondence, contracts, reports, etc., may be "spread" upon the minutes; that is, copied into the minutes. The secretary should keep on file, for reference, other correspondence and documents introduced at a meeting. The first pages should contain a certified copy of the articles of association of the corporation, or a transcription of the articles made by the secretary, followed by the by-laws, recorded by the same hand. The secretary should then certify that the foregoing by-laws are a true and accurate copy of those adopted by the stockholders or directors at a certain meeting specified as to time and place. Several blank pages should be left for entering amendments, and then should follow the minutes of the first stockholders' meeting. The minutes of stockholders' and directors' meetings may then be entered as they occur, care being taken to distinguish them by the headings "Meeting of the Stockholders," "Meeting of the Directors," with time and place.

There should be but little or no space left between the minutes of the various meetings, and then no false minutes can be entered without detection. When necessary, additions to minutes may be made on the page margin. Cross lines in ink may be made over the space left at the bottom of a page in order to prevent false entries. Minutes recorded with pen and ink in a bound book are legally the most satisfactory. Loose-leaf minute books may easily have substitutions made in them so that their value as authentic records is more often open to question. Every page of a loose-leaf minute book should be certified to by the proper officers, and not just the minutes as a whole on the last sheet. Sometimes separate minute books are kept for stockholders' and directors' meetings, but usually only in large corporations. The minutes should always be signed by the presiding officer and the secretary in order to establish their authenticity. The minute book is kept by the secretary of the corporation, and should remain in his possession. Entries should be made by no one else. A properly-kept minute book is evidence in law of the acts of stockholders and directors at their meetings. Therefore the secretary should take great care that the minutes are exact. They should be written into the minute book immediately after the meeting, unless sufficiently elaborate notes have been taken of the proceedings. Sometimes the presiding officer will ask that motions and resolutions aside from routine matters, such as motions to accept, adjourn, etc., be submitted in writing by those proposing them; the resulting documents are turned over to the secretary and form part of his notes, preventing mistakes which might otherwise occur. A meeting of stockholders or directors expresses its will by motions and resolutions which are introduced, discussed, and passed or rejected according to the rules of order adopted by the deliberative body using them. It is often desirable that the introducer and the seconder of a motion or resolution be named in the record of a meeting, but the absence of the names does not affect the authority or force of the action. Actions taken by motions and resolutions are directory or mandatory according to their nature and language, and are binding on officers or agents, if necessary to be carried out by them, in the one degree or the other. When a stockholder or director has objections to an action of the body to which he belongs, he may wish to have his objections recorded in the minutes. He may present his objections orally or in writing, and the presiding officer will decide whether they are pertinent and shall be recorded. If presented in writing, that fact should be noted in the minutes and the document should be kept on file if it is not spread upon the minutes. If the objecting member files objections to an action and does not afterward acquiesce in it or assist in giving effect to it, he may sometimes avoid liability resulting from the action. A mere vote of "No," with subsequent acquiescence, implied or actual, will not relieve him from liability. A member's subsequent attitude toward an action should always correspond with his objections if he wishes to avoid personal responsibility. If liability is likely to result from an action to which he objects, he may demand that his objection be recorded. The minutes of meetings are read by the secretary and are approved or amended at the next subsequent meeting of the body whose actions they record. If no member of the body objects to the minutes, usually the first item of record at the next meeting after the time, place, and members present, is that the minutes of the last meeting were read and approved. If there is a correction to be made, the formality depends upon the apparency or importance of the correction. A member may call attention to a mistake in spelling a name, in a date or some other obvious matter and the president may, without formal action, direct that the change be made. If a more important error is made, especially if there is a question or dispute over it, a motion may be necessary to accomplish a correction. But whether the matter in question was an error or not, if a majority of those present at the current meeting order that a change be made in the minutes of the previous meeting the secretary must make it. The minutes of the current meeting should report the corrections or changes ordered in the previous minutes and the portions of the previous minutes changed should be stricken out by having a red line drawn through them and the matter ordered to be inserted should be copied between the lines in red ink. A marginal reference should be made to the minutes of the meeting when the changes were ordered. Sometimes, in order to maintain its legal existence, a corporation organized under the laws of one state, but having its principal office in another state, must have an annual meeting of the stockholders in the domiciliary state. This is a provision of the statutes of some of the states. In a case of this kind, the non-resident corporation is usually represented in the parent state by a few of the officers or stockholders or a resident director, and a majority of the stock is represented by proxies taken or sent to the meeting. The minutes of the meeting are prepared beforehand by the secretary and are sent with the proxies. The proceedings and actions to be taken have been decided by the majority stockholders, and the reasons for the meeting are to comply with the law as to the necessity of stockholders' meetings at given intervals or to legalize the acts that have been determined on previously by the majority stockholders. The regular officers, or officers appointed at the meeting, have charge of the proceedings, the minutes are read, and the actions they recite are formally taken, and the meeting is adjourned. The minutes are then returned to the secretary, if he was not present, and are recorded by him. This is a common practice in contemporary corporation management.

§ 68. **The Stockholders' Ledger.**

The stockholders' ledger is used for the stock accounts of the various stockholders. It shows the number of shares originally subscribed for, the transfers made, and the balance of stock held by each member of the corporation. Stock is posted to the debit of the persons to whom it is delivered, and the accounts are credited when the stock is subsequently transferred to other persons. It may and should comprehend, where the law does not necessitate their being kept separately, a stock register, giving the names of stockholders arranged alphabetically, their addresses, and such other matter as is necessary or desirable. The entries in the stockholders' ledger are obtained from the instalment book, where there is one, and from the transfer book or stock certificate book, either of which "serves as a journal to this ledger, as it shows the names of parties to be charged and those to be credited for the shares sold or transferred." The fore part of this ledger should contain a capital stock account, and all instalments paid or full stock payments made should be debited to capital stock. The stockholders are credited with the amounts paid, so that the two accounts should balance and show the paid up capital.

§ 69. The Book of Stock Certificates.

This book contains the blank engraved certificates of stock and the stubs thereto attached. These certificates are issued to the stockholders when the full amount of their subscription to the capital stock has been paid. If there is an instalment scrip book, the certificate is exchanged for the scrip when all the instalments have been paid. The certificate book should contain as many certificates as it is thought will be needed, taking into consideration the likelihood of several transfers of stock. In "close" corporations, a corporation in which the stock is held closely, not transferred, only a few more certificates than there are stockholders will be necessary, while in a corporation whose stock is actively traded in, a great many certificates will be needed. The certificates are issued serially and are so numbered. The stubs are numbered to correspond with the certificates, and contain such information as the number of shares issued, the date of issue, to whom issued, from whom transferred (if so), and receipts for the certificates to be signed by those to whom shares are issued. Certificates are made out, seals are attached, stubs are filled by the secretary, and the certificates are signed, as statute or by-laws provide, by the president and secretary or the president and treasurer. If the engraved certificates are not ready for distribution when the company is organized, receipts for money paid are given, or temporary written or printed certificates are issued which are worded as the permanent certificates are to be worded. These receipts or certificates are exchangeable for the permanent ones. Attached to them are slips showing the circumstance under which they were issued and stating that they are to be exchanged. Common and preferred stock certificates are worded differently and are usually bound separately, especially if there are many of each. They should always be numbered separately. When a stockholder transfers all or any part of his stock, the certificate must be returned to the secretary of the corporation. On the back of the certificate is a blank form of assignment and power of attorney which must have been properly filled and signed by the transferrer, whose signature must be witnessed by a competent witness. The secretary pastes the certificate to the stub from which it was detached, and writes or stamps across the face of the certificate "Cancelled * * * (date)." He also notes on the stub to whom the transfer was made and issues a new certificate or new certificates to the person or persons designated as transferee or transferees. If the owner of the certificate retain part of the shares, a new certificate is issued to him for the part he keeps. In this case there should be noted on the old stub "Renewed by No. ——," inserting the number of the new certificate, and on the stub of the new certificate, "For No. ——, Cancelled," inserting the number of the old certificate. The account of the transferrer should then be debited on the stockholders' ledger for the shares transferred. In making this partial transfer, the transferrer will probably bring in his certificate and get two certificates for it, one for the number of shares to be transferred in the name of the transferee and one for the balance of his own shares made in his name. If for any reason the sale should not be made, the transferrer has to get the transferee of the shares meant to be sold and already transferred to reassign them. So a better way, where there is any doubt at all of a prospective sale, is for the transferrer to exchange his original certificate for two certificates made out to himself for the amounts respectively to be sold and to be retained, and, if the sale occurs, simply to assign the certificate with the shares sold, leaving the new owner to get a certificate in his own name.

Sometimes shares are transferred in blank, i. e., the transferee signs and has his signature witnessed, but does not put in the name of the assignee. The secretary of a corporation has nothing to do with stock so assigned till some holder of the certificate wishes to perfect his title by inserting his own name and sending the certificate to the secretary in order to become a stockholder of record. If the secretary has any doubts as to the validity of an assignment of stock, he has a right to investigate the transfer by communicating with the former owner or owners before making the transfer. He may require a stranger presenting a certificate for transfer to be identified and he may demand proof of ownership of any one so presenting a certificate. If, finally, after investigation there be any doubt of ownership, the secretary may refuse to make the transfer till authorized by the board of directors, who, in turn, if there are several claims to ownership of a certificate, may wait till the contested matters are adjusted by the parties themselves or are settled by the courts. If there is no reasonable doubt as to ownership and as to the correctness of the transfer, the secretary is bound to make a transfer on request.

§ 70. **The Transfer Book.**

Smaller companies do not always have transfer books, as the assignment on the back of a certificate is legally sufficient to authorize the secretary to make a transfer of record and to issue a new certificate to the purchaser. Some states, however, require a transfer book to be kept by a corporation. Every large corporation whose stock is active should have a by-law which requires that shares shall be transferable only by entry on the books of the corporation, for then it is possible for the corporation officers and directors to know who are entitled to vote, who are entitled to receive dividends, and who are liable as stockholders to the corporation and its creditors. The transfer book kept separate from the stock ledger and certificate book is a great convenience and a more accurate and permanent record of the history of stock transfers. In instances when there has been a dispute as to which book is primary evidence of transfer, it has been held that the transfer book must control over the stock certificate book and the stock ledger.

The stock transfer book is merely a book to record the transfer of stock from one ownership to another, with the number of the stock certificate taken in set against the number of the stock certificate issued, and with a further provision for the name of the person who has been authorized to make the transfer, if the owner himself does not present the stock. The form of such a book would be two columns on one side, with the number of the stock certificate taken in and the name of the owner delivering it, and two columns on the other side for the number of the new stock certificate issued, with the name of the person to whom the stock is issued, with yet another column for the name of the person who made the transfer as an agent for the owner, if the owner did not personally present the stock. One line is used for each stock certificate either received or delivered, and the transaction therefore runs across the page as a complete record of the stock taken in, the person who transferred it, the person to whom it was transferred, and the number of the new certificate. There will also be references to the pages of the stock ledger where the stock accounts of the transferrer and transferee are recorded.

There are various kinds of transfer books, made to suit various needs. There is one form which is a detached assignment, the same form of assignment as is printed on the back of the stock certificate, except that the power of attorney is omitted. It is merely a device for signing an assignment when the stock certificate is not in hand.

Another kind of transfer book consists of forms of assignment, bound together and numbered, which are filled out when a stockholder makes a transfer. The following is representative of this kind of form:

Transfer No. ...... Ledger Folio ......

For value received, I hereby assign and transfer to Robert Bell all my right, title and interest in *one hundred* shares of the capital stock of The McRay Publishing Company, of Indianapolis, the said stock standing in my name on the books of said company and represented by certificate No. ......, this 9th day of February, 1906.

James Reed, Witness. Samuel Minnick.

New Certificate, No. ......

Issued to Robert Bell, Ledger Folio ......

When such transfer is made by an agent, his power of attorney should be filed away by the secretary of the company, unless the power is granted on the cancelled certificate, which is sufficient. The secretary fills in the blanks Transfer No. ———, Ledger Folio ———, New Certificate No. ———, and [Assignee's] Ledger Folio ———.

The last form is more protective of the transferrer of stock, for a stockholder is liable to the creditors of his corporation until the transfer is formally recorded, personally or by attorney, on the corporation's books. This form gives the signature of the transferrer, with date and witness, so that he is relieved from the risk incident to delay on the part of a transferee who has not surrendered an assigned certificate.

§ 71. The Dividend Book.

The dividend book, when one is used, is usually kept by the treasurer of a corporation. It is a record of the stockholders, with the number of shares held by each set in a column after the name, followed by a column in which is given the amount of the dividend. After this comes a column in which is set down the date of payment, and last, a column in which the stockholder signs his name in receipt for the dividend. In large corporations, where there are many scattered stockholders, payment is made by voucher.

§ 72. The Subscription Book.

As subscriptions to stock are a contract as between the subscribers, and are binding from the time they are made, a subscription book has the nature of a contract as well as of a record. The contract does not go into effect, of course, till the corporation is fully organized and created. Such mutual contracts to become stockholders in a prospective corporation are binding at common law, but they are not binding and enforceable until the proposed capital stock is subscribed, unless there is a special agreement to that effect in the subscription contract. Under the statutes of most of the states, however, corporations are not bound so closely. Some part of the capital is specified as a minimum amount with which the corporation may begin business, and this amount is named in the charter. As soon as this amount is subscribed, the subscriptions are enforceable. The amount should be set out in the subscription agreement as that with which the corporation will begin business. The subscription book contains the names and addresses of the subscribers for stock, and the number of shares subscribed by each. A small book serves the purpose usually, unless the corporation is very large and the prospective stockholders are many. In a small corporation a single sheet of paper is oftentimes used, or small, individual subscription blanks are printed. These blanks are sometimes used in forming large corporations and the subscription book is used as a mere record. To make a subscription contract binding, it must name the par value of the stock subscribed. It should also name the amount of capital stock.

The following form may be used as a page contract and record, where there are no special conditions and stipulations:

CHICAGO, ILL., September 12, 1904.

We, the undersigned, hereby severally subscribe for the amount of the capital stock of The Gray Manufacturing Company set opposite our respective names, and agree to take and pay for the stock at its par value, in cash, on demand of the treasurer of the company, at the office of the Union Trust Company, of Chicago, Ill. The capital stock of said corporation is to be $100,000, divided into 1,000 shares of $100 each, par value.

(Provide four columns to follow here. In the first is set down the dates of subscription; in the second, the signatures of the subscribers; in the third, the number of shares subscribed by each; in the fourth, the addresses.)

We, the undersigned, subscribe our names in witness to the foregoing subscriptions and signatures, in the city of Chicago, state of Illinois, this 20th day of September, 1904.

JAMES GRAY, President.
WALTER LORD, Secretary.

If the corporation is issuing both common and preferred stock, the agreement should recite the total amount of capital stock, the number of shares, how much of it is common and how much preferred, and the par value of the shares. Then a column should be placed in the subscription book, after the column in which is to be written the number of shares subscribed, to denote whether the shares subscribed are common or preferred. Care should be taken to make the subscription "we subscribe," and not "we agree to subscribe," which has a different meaning.

When there are special conditions attaching to a subscription, they should be set out in detail. It may be suggested that inserting unlawful conditions will make such a subscription contract void. When a prospectus has been sent with subscription blanks, it has been considered that the representations made in it must be fulfilled by the corporation in order to make the subscription hold.

§ 73. Instalment and Instalment Scrip Books.

Sometimes stock is to be paid for at given times, in given per cents, till the payment is completed. The instalment book consists of the instalment lists, one of which is made out just before an instalment is due. These lists, each of which is headed by the number of the instalment and the per cent., are made up from the subscription book, and contain several columns. The first gives the date the instalment is due; second, the name of each subscriber; third, the number of shares; fourth, the amount of the instalment due (in dollars); sixth, interest on instalments (for use when the instalment is not paid on due date); seventh, amount received on instalments; eighth, ledger folio; ninth, date of payment of instalments. The individual subscribers are credited for payments in the stock ledger accounts, and the totals of instalments paid are carried to the general cash book. The instalment scrip book is a receipt book made with special reference to the instalments to be paid. When all the instalments are paid, these receipts are returned to the corporation by subscribers, and given in exchange for certificates of stock, one certificate, of course, being issued for one complete series of instalment scrips. The following is a form for such scrip, consisting of stub and receipt. Brackets [] indicate blanks to be filed by the secretary:

Installment Scrip No. [1].

Gray Manufacturing Co.,
Chicago, Ill.
[100] shares.

[First] Installment, [10] per cent. [$1,000.00].

Installment due, [Date].

Installment paid, [Date].

Received the scrip.

....

[$1,000.00]. [100] Shares.

GRAY MANUFACTURING COMPANY,
Chicago, Ill., [Date].

Received from........................the sum of [One Thousand] Dollars, which is the [first] installment of [10] per cent in payment on subscription for [one hundred] shares of the capital stock of the GRAY MANUFACTURING COMPANY.

Said shares are reserved and set apart for the subscriber or [his] assigns on condition of the fulfillment of the terms of subscription.

..........Secretary. ....President.

§ 74. The Corporation Calendar.

Every corporation should have a corporate calendar as a reminder of those formal matters of corporate concern that must be attended to at stated times. The calendar is a book or card of memoranda, arranged in chronological order, relative to such matters of corporate procedure and business as paying taxes (franchise, county and city), notices of stockholders' and directors' meetings, reports to state officials, etc. In preparing a calendar, the secretary of the corporation will examine the statutes of the state under which the corporation is organized, and the statutes of the state or states in which it is doing business, so as to include in the calendar all the obligations imposed on the corporation and the time for performing the obligations.

The following corporate calendar is prepared for the year 1905, for a corporation which, according to the statute under which it was organized, the laws of the place where it is doing business, and its own by-laws, holds its annual stockholders' meeting on the last Monday in January, a directors' meeting on the first Tuesday in each month, makes an annual report to the state auditor on the last day of January, lists its property for taxation March first, is entitled to a hearing before the taxing board within the last half of the month of June, pays taxes on or before the first Mondays of May and November, pays a semi-annual dividend following the directors' meetings in January and July, closes its stock-transfer books twenty days before each stockholders' meeting, and requires five days' notice of directors' meetings and ten days' notice of stockholders' meetings. In the case of reports, payment of taxes, etc., it is well to make a memorandum ten days or more before the expiration of the time allowed for completing the work. When the regular day for doing any act, such as giving notice, etc., falls on Sunday, the memorandum is made on the preceding Saturday. The July meeting of the directors falling on a holiday (the Fourth) the calendar provides for holding the meeting on the next day.

Corporate calendar of the ...... Company of ......

1905.

January
3. Directors' meeting.
5. Payment of semi-annual dividend.
10. Close transfer books for annual stocksholders' meeting on January 30.
20. Notify stockholders of annual meeting on January 30.
21. Prepare annual report for state auditor before January 31.
30. Annual meeting of stockholders.
31. Forward annual reports to state auditor.

February
2. Mail notices of directors' meeting on February 7.
7. Directors' meeting.
18. Prepare for listing property for taxation March 1.

March
1. List corporation property for taxation.
2. Mail notices of directors' meeting on March 7.
7. Directors' meeting.
30. Mail notices of directors' meeting on April 4.

April
4. Directors' meeting.
21. Taxes must be paid within ten days.
22. Mail notices of directors' meeting on May 2.

May
1. Last day for paying taxes.
2. Directors' meeting.

June

1. Mail notices of directors' meeting on June 6.
5. Tax Board of Review meets June 15.
6. Directors' meeting.
15. Tax Board of Review meets.
29. Mail notices of directors' meeting on July 4-5.

July

4. Holiday.
5. Directors' meeting.
6. Payment of semi-annual dividend.
27. Mail notices of directors' meeting on August 1.

August

1. Directors' meeting.
31. Mail notices of directors' meeting on September 5.

September

5. Directors' meeting.
28. Mail notices of directors' meeting on October 3.

October

3. Directors' meeting.
21. Taxes must be paid by November 6.

November

2. Mail notices of directors' meeting on November 7.
6. Last day for paying taxes.
7. Directors' meeting.
30. Mail notices of directors' meeting on December 5.

December

5. Directors' meeting.

§ 75. BOOKS REQUIRED BY LAW.

The kind of books a corporation keeps is usually left to the discretion of its directors. But there are laws in some states which require that corporations shall keep a certain book (it is almost invariably a stock book) or books. The New York law, for instance, requires that "every stock corporation must keep at its office correct books of account of all its business and transactions, and a book to be known as a stock book, containing an alphabetical list of stockholders of the corporation showing residence, number of shares held by each, the time when they became owners, and the amount paid thereon." A board of directors of any corporation should know the laws as to books both of the parent state and the state in which the principal offices are located and also of the foreign states in which the corporation "does business." The New York law requires that "every foreign stock corporation having an office for the transaction of business in this state, except moneyed and railroad corporations, shall keep therein a book to be known as a stock book, etc." There are penalties for non-compliance in the various states having these provisions, so that a board may save trouble and expense by familiarizing itself with the laws on this subject.

PART VIII.

DISSOLUTION, CONSOLIDATION, AND REORGANIZATION OF PRIVATE CORPORATIONS AND RENEWAL OF CHARTER.

DISSOLUTION, CONSOLIDATION AND REORGANIZATION OF PRIVATE CORPORATIONS AND RENEWAL OF CHARTER.

§ 76. Dissolution of a Private Corporation.
77. Consolidation of Private Corporations.
78. Reorganization of a Private Corporation.
79. Renewal of Charter.

§ 76. DISSOLUTION OF A PRIVATE CORPORATION.

There are five ways in which a corporation may cease to exist. If it is created to exist for a given term of years, named in the charter, it dies at the end of that time. Second, the charter may be repealed by the legislature of the state which granted it, if the statute contains a clause, which most statutes do, providing that it may be repealed at any time. Third, the charter may be surrendered voluntarily by the corporation, with the consent of the state. Fourth, the charter may be forfeited for nonuser or for some wrongful act which has been done by the corporation and for which it is called to account by the attorney general of the state. A court decides whether there is a forfeiture. Fifth, when all the members of a corporation die, so there are no stockholders left, it is generally considered that the corporation ceases to exist. This is the law, notwithstanding the fact that the corporation is distinct from its members. The last form of extinction is almost inconceivable in a moneyed corporation with transferrable shares since, when a stockholder dies, his shares pass to his heirs. There is, of course, no such thing as a resignation from a moneyed corporation, and no way for a stockholder to cease to be a stockholder except through a transfer of his stock or the death of the corporation. Whether a consolidation of two companies effects a dissolution depends upon the terms of the statute under which the consolidation is effected. One corporation may absorb another by purchasing, under statutory authority, all the shares, franchises, and properties of another corporation, and this may work a practical dissolution of the selling corporation.

A corporation is not dissolved by a sale and assignment of all its corporate property; by discontinuing business; by failure to elect officers and directors; by the acquisition by one person of all the stock; nor by insolvency.

Many corporations are not successful, and fail in their purpose. Having neither sufficient property or debts to make a formal dissolution necessary, they are simply abandoned by their officers and stockholders. Unless the charter is caused to be forfeited by the state, the corporation is not dissolved till the time limit expires. Failure to pay taxes due to the state is cause for forfeiture of charter. An inactive corporation may be revived at any time under such a running charter by paying delinquent taxes and other debts. Sometimes persons intending to carry on the same line of business as that authorized under a charter owned by an inactive corporation will buy the stock of the inactive corporation at a nominal price, which is less, usually, than it would take to buy a new charter, and will conduct their business under that charter's authority. Care must be exercised that they are not thereby acquiring liabilities of which they had no knowledge. When a corporation becomes insolvent, proper legal proceedings may bring about the appointment of a receiver, who will settle the affairs of the corporation and usually dissolve it.

Voluntary dissolution may be brought about by vote of a given fraction (usually two-thirds) or all of the stockholders of a corporation, according to statutory provisions. In the absence of statutory provisions, a dissolution may usually be brought about by consent of a majority of the stockholders and a decree of a court of competent jurisdiction; or it may certainly be brought about by consent of all the stockholders. Most states give the procedure for bringing about voluntary dissolution, and this procedure should be carefully followed so that all the stockholders and creditors may be bound by the action taken. The usual process is for the directors to call a stockholders' meeting, advertise it and notify the stockholders, and give evidence to the state that proper consent has been given to the dissolution. The directors are then given the power to pay creditors and to divide the remaining property among the stockholders. It has been held that a dissolution of a corporation does not destroy the obligation of a corporation's contracts, as the equitable rights of creditors survive the act of dissolution and attach to the assets and property of the corporation in the hands of its liquidators.

§ 77. CONSOLIDATION OF PRIVATE CORPORATIONS.

Consolidations of corporations must be made under statutory authority, since no corporation exists otherwise. For most purposes a complete consolidation of the capital stock, franchises, and properties of two or more corporations creates a new corporation. But, notwithstanding, rights of action against the constituent corporations will survive against the new corporation. It is a principle of law that a corporation succeeding a corporation whose property and rights it has acquired, must take the obligations of that corporation along with the benefits. Under some jurisdictions it has been held that a successor corporation is bound to the creditors of a constituent corporation only to the amount of property received from it, and that a creditor may prevent a corporation which owes him money from consolidating. A domestic corporation may consolidate with a foreign corporation, but there must be express statutory authority therefor.

Two companies may be united by the directors taking out a new charter and by the formal sale and assignment of the assets of each company to the new company, which may pay for the assets in stock. This is not a consolidation in law, and the new corporation is entirely separate and distinct, and is liable for the debt of the corporation whose assets were conveyed to it only to the extent of the assets received. In most of the states the statutes grant the power to consolidate to certain classes of corporations; and the method of consolidating, as well as the rights and powers of the new corporation thus created, are defined in more or less detail. In Indiana, articles of consolidation are filed with the secretary of state and are treated as the articles of incorporation of the new consolidated corporation and the fee is determined by the amount of capital stock of the new corporation created. The statutes of this state also provide that the consolidation of two corporations does not work the dissolution of either. Connecticut provides that corporations of a similar kind may consolidate into a single corporation which may be either one of the old corporations or a new corporation. It further provides that the directors of the corporations to be consolidated may enter into an agreement prescribing the terms and conditions of consolidation, stating the name of the new corporation, names and addresses of directors, provisions as to stock, etc., the manner of converting the shares of each constituent corporation into shares of the new, together with such other matters as are required in an original certificate of incorporation, and after proper notice to the stockholders of the constituent corporations and an approving vote of two-thirds of the stockholders of each class of outstanding stock, with other procedure as in filing an original certificate, the consolidation is completed. Consolidating corporations must be of the same class or similar classes, and for the same purpose or auxiliary purposes, and the articles of consolidation, like articles of incorporation, must be in accord with the statute under which they are framed. The procedure for consolidation given by a state should be adhered to strictly, so that the resulting organization may be free from defects and the stockholders and creditors of the constituent corporations may be bound by it.

§ 78. REORGANIZATION OF A PRIVATE CORPORATION.

It sometimes happens that the articles of association of a corporation are found to be, or in time become, unsuited to the business for which they were drawn. Further, it may not be possible to amend the articles so as to make them suitable. The statutes under which they were prepared may not permit an amendment in the direction which would place the corporation on the basis desired. Or it may be learned that the laws of the parent state do not give as free scope to the conduct of the business as is desirable, or that they are inhibitory in some other way. Or, the corporation may become insolvent, so that the only way to protect its assets is to sell them to a new corporation, which will continue the same business under the more favorable circumstances of freedom from debt, the old corporation having been dissolved. This is often done when the stock of the old corporation has been issued full paid and non-assessable, and only part of the stockholders were willing to pay a voluntary assessment in order to raise the money to put the corporation on its feet again. The stockholders in the new corporation are usually those who were willing to put more money into the enterprise through an assessment. Or, there may be an attempt to "freeze out" undesirable stockholders. In any of these instances a reorganization of a corporation may be necessary. A transference of the assets of the old corporation is made by voluntary or forced sale to the new, and stock is issued to some or all the stockholders of the old corporation upon an agreed plan of distribution.

As was said under the subject of consolidation, the successor corporation in the case of reorganization is a new corporation, but the assets it receives from the old corporation may be followed by creditors and be subjected to the payment of creditors' claims, unless it has acquired the assets at forced sale, as a receiver's sale, in which case the proceeds of the sale will have been distributed in payment of creditor's claims and there is no liability on the part of the successor corporation.

Where, however, a corporation takes advantage of a statute which permits a corporation organized under a previous statute to reincorporate under the statute superseding it, its identity continues, and its liabilities continue. The procedure for reorganizing by voluntary sale is as follows: First, a meeting of the stockholders of the old corporation, authorizing the directors to sell and outlining plans and arrangements; second, meeting of the directors of the old corporation, authorizing the proper officer to communicate the agreed plans and arrangements to the new corporation, and to conduct the sale if the plans are approved; third, communication of plans by officers of the old corporation; fourth, meeting of the incorporators and stock subscribers of the new corporation, who adopt a resolution authorizing their board of directors to accept the proposition of the old corporation; fifth, meeting of directors of the new corporation to accept proposition and to authorize proper officers to purchase the assets of the old corporation; sixth, formal acceptance communicated by officers of new corporation to officers of the old; seventh, payment of creditors of old corporation; eighth, formal transfer of assets; ninth, payment for assets in cash or stock. The same care should be taken that statutory and common law requirements are fulfilled as is taken in consolidations.

§ 79. RENEWAL OF CHARTER.

If a charter expires, a corporation may have it renewed according to statutory provisions. The renewal of a charter does not create a new corporation, but continues the existence of the old one. It has been held that a delay in application for renewal on the part of a careless officer did not permit a reverter of property, but that the renewal, when granted, related back to the time when the charter expired. Rights of action, of course, continue under the renewal.

PART IX.

FORMS.

FORMS.

Form 1. Promoter's Contract.

Whereas, the undersigned subscribers contemplate the organization of a corporation under the laws of the state (or territory) of ......, to be known by the name of ......, or by such other name as the subscribing stockholders therein may adopt, having an authorized capital stock of $......, divided into ...... shares of $...... each, for the purpose of (state object of corporation briefly).

It is hereby agreed by and between said subscribers and (promoter's name):

(1) That each of said subscribers will take the amount of stock in said corporation set opposite his name and pay for the same according to the terms of a subscription contract this day executed by them.

(2) That said (promoter's name) has heretofore done work and performed services of great value in preparing for the organization of said corporation and securing subscriptions to its capital stock, and is to hereafter perform additional services in perfecting its organization and securing *bona fide* subscriptions to the capital stock of said corporation aggregating (aside from the stock taken by the subscribers hereto) the sum of $......, or such part thereof as the subscribing stockholders may deem necessary to dispose of.

(3) Said (promoter's name) shall have ...... days in which to secure subscriptions for the aforesaid $...... of capital stock of said company, and if he has failed to do so at the end of that time the subscribers, at their option, may extend his authority, or may recall it, and may, if they so elect, subscribe for the remaining portion of said $...... of capital stock which then remains unsubscribed for, or induce others to take it, or abandon the formation of said corporation.

(4) Upon the incorporation of said proposed company there shall be issued to said (promoter's name), or to any person designated by him, by indorsement on this agreement, in payment for his services in effecting such incorporation and securing the aforesaid subscriptions to the capital stock as above provided, ... shares of the capital stock of said corporation.

Provided, That if said (promoter's name) shall have failed to secure *bona fide* subscriptions to said capital stock in the full amount of $......, there shall be issued to him only such proportion of ...... shares of stock as the capital stock for which he has obtained subscriptions is of $......, the whole amount for which he hereby undertakes to solicit subscriptions.

Provided, further, That if said company be incorporated before the time allowed said (promoter's name) for obtaining subscriptions has expired and said (promoter's name) shall thereafter, under the terms of this contract secure additional *bona fide* subscriptions to the capital stock of said company, as above provided, shares of stock shall be issued within thirty days after the said time allowed for obtaining subscriptions has expired to (promoter's name), or to his assignee, as above provided, in the proportion of one share of stock for each $...... of capital stock for which subscriptions are so secured by him.

IN WITNESS WHEREOF the said subscribers have hereunto attached their names and designated the number of shares taken by each of them, and said (promoter's name) has agreed to the above terms.

	SHARES
....	....
....	....
....	....

I agree to the above terms.

(Signed by promoter.)

Form 2. Subscription by Owners of Business on Executing Agreement with Promoters.

We, the undersigned, hereby subscribe for and agree to purchase (on the terms and conditions hereinafter stated) ...... shares of the capital stock of the ......, a corporation to be hereafter organized under the laws of the state (or territory) of ......, having $...... of capital stock, divided into ...... shares of $100 each, said stock to be delivered, fully paid and non-assessable, upon payment of the purchase price, as hereinafter provided.

It is mutually agreed between the several subscribers hereto and ...... promoter of said company that this subscription is conditioned upon *bona fide* contracts by solvent parties being obtained to purchase ...... shares of the treasury stock of said company, hereinafter mentioned, to be paid for in cash at the rate of not less than $50 per share, and the organization of said company within thirty days from this date.

The shares of stock hereby subscribed are to be issued by said (*name of company*) fully paid and non-assessable, ... shares to A, ... shares to B and ...... shares to C, and are to be paid for in full by the conveyance by these subscribers to said (*name of company*) of the following described land: (describing it), together with the flouring mill thereon situate, and all the personal property, business, good will and effects of, or pertaining to, the mill and the milling business heretofore carried on by the partnership firm of A, B and C, at said location, except (enumerate property reserved), the value of which property and goodwill so to be conveyed is hereby agreed to be $...... (*the face value of shares subscribed for*), and this subscription shall be binding only in case payment by the conveyance of said property is accepted by the company.

In consideration of the organization of such company and the exchange of shares of its stock for the milling property, as above provided, the undersigned subscribers agree to donate to said (*name of corporation*) shares of stock issued to them as above provided, fully paid and non-assessable, as follows: A, ... shares; B, ... shares; C, ... shares; the same to be placed in the treasury of the said company as treasury stock, and sold to provide a working capital.

IN WITNESS WHEREOF the undersigned subscribers and said promoter have hereunto set their hands and seals this ...... day of ......, 1904.

A............
B............
C............

Agreed to by the promoter of the company.

(Signed) ....

Form 3. Stock Subscription Given to Promoter.

We, the undersigned, hereby subscribe for and agree to purchase (subject to the terms and conditions herein stated) the number of shares set opposite our respective names of the par value of $100 each of the treasury stock of the ......, a corporation to be hereafter organized under the laws of the state (or territory) of ......, said stock to be delivered, fully paid and non-assessable, upon payment of the purchase price, as hereinafter provided.

It is mutually agreed between the several subscribers hereto, and ...... promoter of said company, that the said subscription is conditioned upon *bona fide* subscriptions being obtained for ......

shares of the said treasury stock on the terms herein stated within thirty days from the date thereof.

We severally agree to accept said shares subscribed for and to pay for them at the rate of $50 for each share to the treasurer of said company as soon as the said company is organized and its treasury stock, fully paid and non-assessable, is ready for delivery.

(Dated) ...., 1904.

NAMES.	ADDRESSES.	SHARES.	AMOUNT.
....	....	....	....
....	....	....	....

I agree to the above terms.

(Signed by promoter).

Form 4. Subscription Blank, After Organization.

To the ...... Company, Cincinnati, Ohio:

Enclosed find certified check in payment for 20 per cent. of the cost of ...... shares of the common (or preferred) stock of the ...... company, for which I hereby subscribe and agree to pay the remaining 80 per cent of the par value of said shares, being the sum of $......, in instalments of not more than one-fourth thereof each thirty days upon call of the board of directors of said company, and five days' notice given to me by mail.

(Signed) ....
Street ....
City ....
State ....

Date ...., 1905.

Form 5. Underwriting Agreement.

....

THE UNITED STATES SHIPBUILDING COMPANY.

A corporation to be organized under the laws of the state of New Jersey, either by that or some similar name, proposes to acquire the *plants and equipment of the following concerns, or their capital stocks, free from any liens:*

The Union Iron Works............San Francisco, California.
The Bath Iron Works, Limited and The Hyde Windlass Company, ...Bath, Maine.
The Crescent Ship Yard, and The Samuel L. Moore & Sons Co. Elizabethport, New Jersey
The Eastern Shipbuilding Company....New London, Conn.
The Harlan & Hollingsworth Co....Wilmington, Delaware.
and
The Canda Manufacturing Company...Carteret, New Jersey.

Underwriting Agreement.

For $9,000,000 Series A First Mortgage, Five Per Cent. Sinking Fund, Gold Bonds, due 1932, part of an authorized issue of $16,000,000, Bonds of $1,000 each, $5,500,000 being withdrawn from public issue for disposal under the Vendor's and Subscribers' Contracts, and $1,500,000 being Reserved in the Treasury of the Company. Additional Bonds may be issued only for the purpose of acquiring Additional Plants and Equipment and for Improvements and Betterments, upon such Terms and Conditions as shall be Approved by the Holders of a Majority of the Bonds under the Present Issue Outstanding at the Time of such Approval.

We, the undersigned, each for himself, with The Mercantile Trust Company, for itself and for the United States Shipbuilding Company, and to and with each other, agree to subscribe to, receive and pay for the amount of five per cent. first mortgage, sinking fund, gold bonds of the United States Shipbuilding Company of one thousand dollars each, set opposite our respective signatures hereto, at the price of $900 for each bond, 25 per cent. to be paid upon allotment and the balance upon the demand of The Mercantile Trust Company.

We further agree to receive and pay for any smaller amount than that subscribed for which may be allotted to us respectively.

The conditions of this underwriting agreement are as follows:

(1) That this agreement shall not be binding upon the undersigned unless the entire amount of $9,000,000 of bonds shall have been underwritten.

(2) That within such reasonable time as shall be fixed by The Mercantile Trust Company the said $9,000,000 of bonds, less any

amount withdrawn by the underwriters, as hereinafter set forth, will be offered to the public, through such banker or bankers or brokers as shall be designated by The Mercantile Trust Company, for subscription at not less than 95 per cent.

(3) With the consent of The Mercantile Trust Company, any other concern may be included in this combination, or others substituted therefor, provided the working efficiency or values are not lessened or impaired.

(4) That, if the amount of bonds subscribed and paid for upon such public issues be at least equal to the amount of bonds so offered to the public, then all liability under this agreement shall cease.

(5) That, in case the amount of bonds subscribed for upon such public offering shall be less than the total amount of bonds so offered to the public, or in case the bonds subscribed for upon such public issue shall not be paid for to an amount equal, at the rate of 95 per cent., to the total of such public offering, then such deficiency in subscriptions and payments will, upon the demand of The Mercantile Trust Company, be made good by the subscribers hereto in the manner aforesaid, *pro rata* in the proportion their subscriptions for bonds not withdrawn by them from public issue bear to the total amount of bonds so offered to the public.

(6) That each underwriter shall receive in preferred and common stock of the United States Shipbuilding Company 25 per cent. of the par value of the bonds hereby underwritten in each kind of stock, and also that all the proceeds, not to exceed 5 per cent., realized from the sale of the bonds at public issue in excess of 90 per cent., after deducting issue expenses, shall belong to the underwriters.

(7) That any underwriter shall have the option of withdrawing from the public issue any of the bonds hereby underwritten by him, provided that he notify The Mercantile Trust Company, five days prior to the date fixed for the public issue, that he elects to purchase said bonds, provided that, in the proportion of the bonds so purchased, he waives his said right to participate in the cash proceeds realized from the public issue.

(8) That no underwriter shall sell or offer for sale the bonds so purchased, nor any of the bonus shares he receives, until twelve months after the date of payment, without the consent of The Mercantile Trust Company.

New York, April 19, 1902.

NAME.	ADDRESS.	BONDS UNDERWRITTEN.
....	....	....
....	....	....
....	....	....

Form 6. Purposes of Incorporation.

The purposes for which a corporation is formed should be explicitly and comprehensively stated in the articles of association. Mr. James B. Dill says of the section in which the objects of incorporation are defined (Dill on New Jersey Corporations, p. 21): "This being the important part of the certificate of incorporation, great care should be taken that the objects and purposes of the company are stated in the fullest and clearest manner possible, because the company cannot undertake any business not authorized by its charter, and not even the fullest sanction given by the shareholders will make valid an act which is outside the powers of the company. Directors undertaking any such business may become personally liable for loss, and great inconvenience follows from companies having too limited powers." He questions how much in detail the objects should be expressed, and says: "The balance of disadvantage decidedly attaches to too narrowly defined objects. It is easier to compress, so to speak, the business of a company within the limits of large objects and broad powers than to develop business by extension in the face of narrowly defined objects. It is better to give latitude to the objects and powers as contained in the certificate of incorporation, and to limit the powers of directors by the by-laws, than to run the risk of the subsequent insertion in the by-laws or in the minutes of the board of directors of a provision intended to meet some pressing requirements of the business, which provision may be found absolutely worthless because of variation from the terms of the certificate of incorporation. It is customary to insert general words, such as, 'In general, to carry on any other business, whether manufacturing or otherwise.' But it must be understood that the courts limit such words to operations of a nature similar to the business previously mentioned, and will not include any wholly fresh business."

The following are examples of the correct expression of the objects of certain kinds of corporations. (Note should be taken of the statutes of the state under which one is incorporating, to see that all objects expressed are authorized.)

AGRICULTURAL IMPLEMENTS.

To purchase, lease or otherwise acquire lands and buildings for the erection and operation of factories, workshops and warehouses with suitable equipment for manufacturing and selling agricultural implements; to manufacture, buy, sell, import, export and deal in agricultural implements and machinery of all kinds, including implements for stirring, pulverizing and preparing the soil, planting, harvesting, conveying and threshing crops, and for otherwise conducting the operations of agriculture.

APARTMENT HOUSES.

To purchase, lease or otherwise acquire real estate necessary to the operations of the company; to buy, lease, build, erect, equip, operate, maintain and sell apartment houses and residence hotels; to purchase, lease install and operate furnaces, boilers and machinery, to supply heat, steam, water, electricity and other means for heating, lighting, power, signalling and other purposes; to construct, install, lease, own and operate telephone exchanges in buildings owned or operated.

AUTOMOBILES.

To purchase, lease and acquire lands and buildings for use as manufactories, warehouses and offices; to manufacture, buy, sell, import and export vehicles of all kinds propelled by mechanical power; engines and appliances for the generation and use of steam, electricity, gasolene, or other form of power for propelling carriages, wagons, trucks, cars, and vehicles of every kind and description; all parts and portions of such vehicles, engines and machinery, and all things incident to or used in connection with the same.

BREWERY.

To buy, lease, own and sell land, buildings and machinery necessary to the operation of a brewery, with warehouses, agencies and offices; to buy and sell grain of all kinds; to manufacture, buy, sell, import and export malt; to manufacture, brew, prepare, make, buy, sell, and deal in beer, porter, ale and all other kinds and classes of malt liquors; to manufacture, buy, sell and refine liquors of all kinds; to manufacture, buy, sell and deal in ice; to build, operate and maintain warehouses and cold storage plants, and do a general warehouse and cold storage business.

CONTRACTORS AND BUILDERS.

To build, repair, remodel, construct and equip houses, buildings, roads, streets, sidewalks, pavements, sewers, tunnels, sub-ways, ditches, conduits, reservoirs, railways, systems of waterworks, manufactories and all structures of wood, stone, brick, cement, iron, steel or other building material.

CHEMICAL COMPANY.

To buy, lease, erect, and acquire, hold, own, and manage real estate and buildings for manufactories and warehouses; to manufacture, buy, sell, import, export and deal in chemicals and drugs of all kinds; to analyze and refine all kinds of chemicals, drugs and preparations thereof; to conduct the business of manufacturers and dealers in chemicals, drugs, medicines, compounds, druggists' sundries, chemical, surgical and scientific apparatus and machinery; to invent, devise, purchase, acquire and use secret processes, and processes protected by patents and trade marks, and to apply for, register, purchase and procure patents and trade-marks, granting exclusive rights to make, vend, sell and use compounds, preparations, medicines, drugs and chemical compositions.

DEPARTMENT STORE.

To buy, lease, construct or otherwise acquire storerooms, warehouses and other buildings; to buy and sell all kinds of merchandise; to equip, conduct and operate a general department store; to establish therein stores for the purchase and sale of dry goods, millinery, cloth and fabrics, gents' furnishing goods, women's clothing, men's and boys' clothing, hats, boots and shoes, furniture, carpets and draperies, drugs and chemicals, hardware, china and glassware, silver, jewelry, pictures, books, stationery, photographs, and photographers' supplies, perfumery, toilet articles, bicycles. [Enumeration made to cover any classes of business desired.]

HOTEL COMPANY.

To purchase, lease, acquire, own and occupy lands and buildings; to erect, construct, equip, operate, manage and maintain houses and buildings for hotels, apartment houses, dwellings, offices and business structures for the accommodation of the public and of individuals; to lease, rent and let the same to tenants and guests, to manufacture, furnish and sell to tenants and occupants of such buildings, heat, light, steam, water, electricity and power; to equip, furnish, keep, manage and operate restaurants, cafés, bars, lunch rooms, tea rooms, billiard halls and barber shops for the accommodation of the public and of individuals.

MINING.

To prospect for, locate and discover mines, mineral lands and deposits of metals, ores and mineral substances; to locate, take up, preempt, purchase, lease, acquire by license, option, franchise, grant, gift or otherwise, own, hold, possess, open, develop, exploit, work and operate mines, mineral lands and claims and mining rights in ...... or elsewhere; to mine for gold, silver, lead, copper, tin, iron, coal and other metals and minerals, and to carry on the business of mining in all its branches.

(To the above form may be added the following incidental powers or any of them):

To purchase, lease, erect, build and otherwise acquire lands and houses for office buildings, workshops, warehouses, stores, hotels and dwelling houses for use in prosecuting the business of mining; to purchase, lease and otherwise acquire lands, mill sites, water rights, tunnel sites, dump rights, ditch rights, easements, licenses and franchises for power houses, pumping plants, reservoirs, railways, tramways, and roads; to build, construct, erect, equip, furnish, purchase, lease, acquire and operate mills, power plants, machinery, tunnels, ditches, sluices, flumes, pipes, pipe lines, reservoirs, private tramways and railways, private roads, telegraph and telephone lines; to purchase, lease, construct, own and operate, cars, locomotives, vehicles, boats and barges for conveying and transporting the products of mines; to purchase, lease or otherwise acquire, build, construct, equip and operate plants and factories for crushing ores and extracting valuable minerals; to buy and sell, crush, reduce, refine, treat, smelt, extract, calcine, concentrate and manipulate all kinds of ores and minerals, for the purpose of obtaining therefrom gold, silver, lead, copper, tin, iron and other metals, combinations of metals and other substances of value, and marketing the same; to engage in the business of smelting, crushing, reducing, refining, assaying and selling ores and mineral-bearing rocks, clays and substances; to manufacture, produce, sell, lease and furnish to others gas, electricity, water, heat, light and power; to transport for hire goods, property and merchandise, telegraph and telephone messages, heat and light; to buy, sell, manufacture and deal in machinery, powder and explosives, fuses, caps, implements, candles, lamps, tools and conveniences of every kind for use in connection with mining and metallurgical operations.

OIL COMPANY.

To locate, purchase, lease and acquire lands, mines, mineral claims, and exclusive rights to prospect for, mine, bore, sink wells and shafts, produce, pipe, convey and transport oil, petroleum, gas and other minerals of every kind and description; to carry on the business of searching and prospecting for, mining, producing, refining, manufacturing, piping, storing, transporting, buying and selling petroleum and other oils and their products and by-products; to buy, sell and market the same; to bore, build, construct, pump, operate and maintain oil and gas wells; to build, construct, purchase, maintain and operate warehouses, storage tanks, pumping plants, pipe lines, refineries, factories, mills, workshops, laboratories and dwelling houses for workmen and others. To acquire, own, develop, operate, sell and dispose of mines of coal, iron, lead, copper, silver, gold, tin and other minerals found on, in or beneath any lands purchased, leased or otherwise acquired; to manufacture, buy, sell, import, export, and deal in pumps, drills, fuses, caps, candles, tools, and conveniences for use in connection with mining or drilling for oil, gas and other minerals.

Form 7. Articles Under the New York Business Corporations Law.

The undersigned (three or more), all of whom are natural persons of full age, two-thirds of whom are citizens of the United States, and one of whom is a resident of the state of New York, hereby associate ourselves together as a corporation under the Business Corporations Law of the state of New York and certify:

1. The name of the corporation shall be ....

2. The purposes for which said corporation is formed are as follows: ......

3. The amount of capital stock of said corporation shall be ...... dollars.

4. The capital stock shall consist of ...... shares of ...... dollars (*$5 to $100*) each and the amount of capital with which the said corporation will begin business is ...... dollars (*not less than $500*).

5. The principal business office of said corporation shall be in the city (*town or village*) of ......, county of ......, state of New York.

6. The duration of said corporation shall be ......

7. The number of directors of said corporation shall be ...... (*three to thirteen*).

8. The names and postoffice addresses of the directors of said corporation for the first year are as follows:

NAMES.	ADDRESSES.
....	....
....	....
....	....

9. The names and post-office addresses of the subscribers of this certificate, and the number of shares of stock which each agrees to take in the corporation are as follows:

NAMES.	ADDRESSES.	SHARES.
....	....	....
....	....	....
....	....	....

10. (*Provisions may be added for the regulation of business and conduct of the corporation, and any limitation upon its powers and the powers of its directors and stockholders which does not exempt them from an obligation imposed by law.*)

In witness whereof, we have made and signed this certificate in duplicate, this ...... day of ......, 19..

....
....
....

State of New York, County of ...., ss:

Before me, a notary public of said county and state, personally appeared ...., ..., and .... to me well known to be the persons described in and who executed the foregoing certificate, and severally acknowledged that they executed the same for the uses and purposes therein stated, this ...... day of ......, 19..

....
(Seal.) Notary Public.

Form 8. Articles Under New Jersey "Act to Incorporate Associations not for Pecuniary Profit."

The undersigned persons (*not less than five*) desiring to associate themselves for a lawful purpose other than pecuniary profit, as hereinafter stated, under the law of the state of New Jersey, entitled "An act to incorporate associations not for pecuniary profit," approved April 21, 1898, do hereby certify:

1. The name and title by which such corporation is to be known in law is ....
2. The purpose for which it is formed is ....
3. The place where such corporation is to be located, and where

its business is to be conducted is in the city (or town) of ...., in the county of ...., state of New Jersey.

4. The number of trustees shall be (*three or more*) and the names of the trustees selected for the first year of its existence are (it is better to give names and places of residence).

5. The corporation may maintain an office or offices at such place or places outside the state of New Jersey, as may be determined by its trustees, where meetings of the trustees may be held and business may be transacted by the trustees, officers and agents of the corporation.

6. The said corporation shall maintain an office at No. .... street, in the city (or town) of ...., county of ...., in the state of New Jersey, with .... in charge thereof during business hours, as its resident agent, upon whom process against said corporation may be served.

IN WITNESS WHEREOF we have hereunto set our hands and seals this ...... day of ......, 1905.

STATE OF ...., COUNTY OF ...., SS:

Be it remembered, that on this ...... day of ......, A. D. 19.., before me, a ...., personally appeared ...., ..., and ...., who I am satisfied are the persons named in and who executed the foregoing certificate, and I having first made known to them the contents thereof, they did each acknowledge that they signed, sealed and delivered the same as their voluntary act and deed.

(Official signature and seal.)

Form 9. Articles of Voluntary Association—Merchant, Etc., Indiana.

The undersigned hereby associate themselves together as a corporation under the laws of the state of Indiana for the incorporation of Voluntary Associations, upon the terms and conditions following:

1. The corporate name of this association shall be the .... company.

2. The capital stock of the association shall be of the amount of ...... dollars and shall be divided into ...... shares of one hundred dollars each.

3. The object and purpose of the association shall be .... (*The act, 1901, page 289, 1903, page 116, enumerates in twenty-six separate paragraphs the purposes for which such an association may be formed, and one of such paragraphs should be substantially copied here.*)

4. The proposed plan of doing business is to (*here state in general and comprehensive terms*).

5. The names of the incorporating members and their places of residence are as follows:

NAMES.	PLACES OF RESIDENCE.
JOHN SMITH	Indianapolis, Ind.
WILLIAM JONES	Chicago, Ill.
JAMES BROWN	Cincinnati, Ohio.

6. The principal place of business of the said association shall be at the city of .... in the state of ....

7. The term of existence of the said corporation shall be fifty years (*or any less number may be named*).

8. The corporate seal of the corporate organization shall be a round metal disk with the words .... (*usually the corporate name*) around the outer margin thereof and the word "seal" in the center thereof, so mounted that it may be used to impress said words in raised letters upon paper.

The directors who are to manage the business and prudential concerns of the association shall be elected annually by vote of the stockholders on the first Monday of .... in each year, beginning in the year 19.. Such meetings shall be held at the principal office of the company in the city of ...., state of ...., and each stockholder shall be allowed one vote in the selection of each director for each share of stock held by him. Immediately following the election of directors, the board of directors shall elect a president, a secretary and a treasurer, who shall have such duties and powers as may be given to them by the by-laws of the association or by the said board of directors.

10. The affairs of the association shall be managed and controlled by a board of three (*or any larger number*) directors. The following persons, to wit: (*naming them*) shall constitute the board of directors and manage the affairs of the association for the first year.

IN WITNESS WHEREOF we have hereunto set our hands and seals this ...... day of ...... 1906.

NAMES.	RESIDENCES.
....	....
....	....
....	....

STATE OF INDIANA, COUNTY OF ...., SS:

Before me, a notary public of said county and state, personally appeared ...., ..., and ...., and acknowledged the execution of the foregoing articles of incorporation.

Witness my hand and notarial seal this ...... day of ......, 1906. My commission expires ....

JOHN SMITH, Notary Public.

Form 10. Charter of the United States Steel Corporation.

(After setting out the action of the directors and stockholders amending the charter and the proposed amendments.)

C. That the certificate of incorporation of said United States Steel Corporation, as amended, shall read as follows:

Amended Certificate of Incorporation of United States Steel Corporation.

We, the undersigned, in order to form a corporation for the purposes hereinafter stated, under and pursuant to the provisions of the act of the legislature of the state of New Jersey, entitled "An Act Concerning Corporations" (Revision of 1896), and the acts amendatory thereof and supplemental thereto, do hereby certify as follows:

I. The name of the corporation is

United States Steel Corporation.

II. (Here follows the location of the principal office in New Jersey, and the name of the agent therein and in charge thereof.)

III. The objects for which the corporation are formed are:

To manufacture iron, steel manganese, coke, copper, lumber and other material, and all or any articles consisting, or partly consisting, of iron, steel, copper, wood, or other materials, and all or any products thereof.

To acquire, own, lease, occupy, use or develop any lands containing coal or iron, manganese, stone or other ores, or oil, and any wood lands, or other lands for any purpose of the company.

To mine or otherwise to extract or remove coal, ores, stone and other minerals and timber from any lands owned, acquired, leased or occupied by the company, or from any other lands.

To buy and sell, or otherwise to deal or to traffic in iron, steel, manganese, copper, stone, ores, coal, coke, wood, lumber, and other materials, and any of the products thereof, and any articles consisting or partly consisting thereof.

To construct bridges, buildings, machinery, ships, boats, engines, cars and other equipment, railroads, docks, slips, elevators, waterworks, gas works and electric works, viaducts, aqueducts, canals and other water-ways, and other means of transportation, and to sell the same or otherwise to dispose thereof, or to maintain and operate the same except that the company shall not maintain or operate any railroad or canal in the state of New Jersey.

To apply for, obtain, register, purchase, lease or otherwise to acquire, and to hold, use, own, operate and introduce, and to sell, assign or otherwise to dispose of, any trade-marks, trade-names, patents, inventions, improvements, and processes used in connection with or secured under letters patent of the United States, or elsewhere or otherwise, and to use, exercise, develop, grant licenses in respect of, or otherwise to turn to account any such trade-marks, patents, licenses, processes and the like, or any such property or rights.

To engage in any other manufacturing, mining, construction or transportation business of any kind or character whatsoever, and to that end to acquire, hold, own and dispose of any and all property, assets, stocks, bonds and rights of any and every kind, but not to engage in any business hereunder which shall require the exercise of the right of eminent domain within the state of New Jersey.

To acquire by purchase, subscription or otherwise, and to hold or to dispose of stocks, bonds or any other obligations of any corporation formed for, or then or theretofore engaged in or pursuing, any one or more of the kinds of business, purposes, objects or operations above indicated, or owning or holding any property of any kind herein mentioned, or of any corporation owning or holding the stocks or the obligations of any such corporation.

To hold for investment, or otherwise to use, sell or dispose of, any stock, bonds or other obligations of any such other corporation; to aid in any manner any corporation whose stock, bonds, or other obligations are held or in any manner guaranteed by the company, and to do any other acts or things for the preservation, protection, improvement or enhancement of the value of any such stock, bonds or other obligations, or to do any acts or things designed for any such purpose; and while owner of any such stock, bonds or other obligations, to exercise all the rights, powers and privileges of ownership thereof, and to exercise any and all voting power thereon.

The business or purpose of the company is from time to time to do any one or more of the acts and things herein set forth; and it may conduct its business in other states, and in territories, and in foreign countries, and may have one office, or more than one office, and keep the books of the company outside of the state of New Jersey, except as otherwise may be provided by law; and may hold, purchase, mortgage and convey real and personal property, either in or out of the state of New Jersey.

Without in any particular limiting any of the objects and powers of the corporation, it is hereby expressly declared and provided that the corporation shall have power to issue bonds and other obligations in payment for property purchased or acquired by it, or for any other object in or about its business; to mortgage or pledge any stocks, bonds or other obligations, or any property which may be acquired by it, to secure any bonds or other obligations by it issued or incurred; to guarantee any dividends, or bonds, or contracts, or other obligations; to make and perform contracts of any kind and description and in carrying on its business or for the purpose of attaining or furthering any of its objects, to do any and all other acts and things, and to exercise any and all other powers which a co-partnership or natural person could do and exercise, and which now or hereafter may be authorized by law.

IV. The total authorized capital stock of the corporation is eleven hundred million dollars ($1,100,000,000), divided into eleven million shares of the par value of one hundred dollars each. Of such total authorized capital stock, five million five hundred thousand shares, amounting to five hundred and fifty million dollars, shall be preferred stock, and five million five hundred thousand shares, amounting to five hundred and fifty million dollars, shall be common stock.

From time to time, the preferred stock and the common stock may be increased according to law and may be issued in such amounts and proportions as shall be determined by the board of directors, and as may be permitted by law.

The holders of the preferred stock shall be entitled to receive, when and as declared, from the surplus or net profits of the corporation, yearly dividends at the rate of seven per centum per annum, and no more, payable quarterly on dates to be fixed by the by-laws. The dividends on the preferred stock shall be cumulative, and shall be payable before any dividend on the common stock shall be paid or set apart; so that, if in any year dividends amounting to seven per cent. shall not have been paid thereon, the deficiency shall be payable before any dividends shall be paid upon or set apart for the common stock.

Whenever all cumulative dividends on the preferred stock for all previous years shall have been declared, and shall have become payable, and the accrued quarterly instalments for the current year shall have been declared and the company shall have paid such cumulative dividends for previous years, and such accrued quarterly instalments, or shall have set aside from its surplus or net profits a sum sufficient for the payment thereof, the board of directors may declare dividends on the common stock, payable then or thereafter out of any remaining surplus or net profits.

In the event of any liquidation or dissolution or winding up (whether voluntary or involuntary) of the corporation the holders of the preferred stock shall be entitled to be paid in full both the par amount of their shares and the unpaid dividends accrued thereon, before any amount shall be paid to the holders of the common stock; and after the payment to the holders of the preferred stock of its par value, and the unpaid accrued dividends thereon, the remaining assets and funds shall be divided and paid to the holders of the common stock according to their respective shares.

V. The names and postoffice addresses of the incorporators, and the number of shares and of stock for which severally and respectively we do hereby subscribe (the aggregate of our said subscriptions being three thousand dollars, is the amount of the capital stock with which the corporation will commence business) are as follows:

(Here follow the names and postoffice addresses of each of the incorporators, and the number of shares of stock subscribed for by each.)

VI. The duration of the corporation shall be perpetual.

VII. The number of directors of the company shall be fixed from time to time by the by-laws; but the number, if fixed at more than three, shall be some multiple of three. The directors shall be classified with respect to the time for which they shall severally hold office by dividing them into three classes, each consisting of one-third of the whole number of the board of directors. The directors of the first class shall be elected for a term of one year; the directors of the second class for a term of two years; and the directors of the third class for a term of three years; and at each annual election the successors to the class of directors whose terms shall expire in that year shall be elected to hold office for the term of three years, so that the term of office of one class of directors shall expire in each year.

The number of the directors may be increased as may be provided in the by-laws. In the case of any increase of the number of the directors the additional directors shall be elected as may be provided in the by-laws by the directors or by the stockholders at an annual or special meeting; and one-third of their number shall be elected for the then unexpired portion of the term of the directors of the first class, one-third of their number for the unexpired portion of the term of the directors of the third class, so that each class of directors shall be increased equally.

In case of any vacancy in any class of directors through death, resignation, disqualification or other cause, the remaining directors, by affirmative vote of a majority of the board of directors, may elect a successor to hold office for the unexpired portion of the term of the director whose place shall be vacant, and until the election of a successor.

The board of directors shall have power to hold their meetings outside of the state of New Jersey at such places as from time to time may be designated by the by-laws or by resolution of the board. The by-laws may prescribe the number of directors necessary to constitute a quorum of the board of directors, which number may be less than a majority of the whole number of the directors.

Unless authorized by votes given in person or by proxy by stockholders holding at least two-thirds of the capital stock of the corporation, which is represented and voted upon in person or by proxy at a meeting specially called for that purpose, or at an annual meeting, the board of directors shall not mortgage or pledge any of its real property, or any shares of the capital stock of any other corporation; but this prohibition shall not be construed to apply to the execution of any purchase-money mortgage or any other purchase-money lien.

As authorized by the act of the legislature of the state of New Jersey, passed March 22, 1901, amending the seventeenth section of the act concerning corporations (Revision of 1896); any action which theretofore required the consent of the holders of two-thirds of the stock at any meeting, after due notice to them given, or required their consent in writing to be filed, may be taken upon the consent of and the consent given and filed by the holders of two-thirds of the stock of each class represented at such meeting in person or by proxy.

Any officer elected or appointed by the board of directors may be removed at any time by the affirmative vote of a majority of the whole board of directors.

Any other officer or employe of the company may be removed at any time by vote of the board of directors, or by any committee or superior officer upon whom such power of removal may be conferred by the by-laws or by vote of the board of directors.

The board of directors by the affirmative vote of a majority of the whole board, may appoint from the directors an executive committee, of which a majority shall constitute a quorum; and, to such extent as shall be provided by the by-laws, such committee shall have and may exercise all or any of the powers of the board of directors, including power to cause the seal of the corporation to be affixed to all papers that may require it.

The board of directors, by the affirmative vote of a majority of the whole board, may appoint any other standing committees, and such standing committees shall have and may exercise such powers as shall be conferred or authorized by the by-laws.

The board of directors may appoint not only other officers of the company, but also one or more vice-presidents, one or more assistant treasurers, and one or more assistant secretaries; and, to the extent provided in the by-laws, the persons so appointed respectively shall have and may exercise all the powers of the president, of the treasurer and of the secretary respectively.

The board of directors shall have power from time to time to fix and to determine and to vary the amount of the working capital of the company; and to direct and determine the use and disposition of any surplus or net profits over and above the capital stock paid in; and in its discretion the board of directors may use and apply any such surplus or accumulated profits in purchasing or acquiring its bonds or other obligations, or shares of its own capital stock, to such extent and in such manner and upon such terms as the board of directors shall deem expedient; but shares of such capital stock so purchased or acquired may be resold, unless such shares shall have been retired for the purpose of decreasing the company's stock as provided by law.

The board of directors shall from time to time determine whether and to what extent, and at what times and places, and under what conditions and regulations, the accounts and books of the corporation, or any of them shall be open to the inspection of the stockholders, and no stockholders shall have any right to inspect any account or book or document of the corporation, except as conferred by statute or authorized by the board of directors or by a resolution of the stockholders.

Subject always to by-laws made by the stockholders, the board of directors may make by-laws, and, from time to time, may alter, amend or repeal any by-laws; but any by-laws made by the board of directors may be altered or repealed by the stockholders at any annual meeting, or at any special meeting, provided notice of such proposed alteration or repeal be included in the notice of the meeting.

In witness whereof, we have hereunto set our hands and seals this 23d day of February, 1901.

(Signatures of Incorporators.)

(Acknowledgment.)

The written assent and signatures of all the incorporators and stockholders of the said United States Steel Corporation to the foregoing amendments and changes is hereto appended.

In witness whereof, the said United States Steel Corporation has caused the certificate to be signed by its president and its secretary, and its corporate seal is hereto affixed, this first day of April, 1901.

(Signatures of President and Secretary, and corporate seal.)

(Acknowledgment.)

We, the undersigned, being all the incorporators and stockholders of the United States Steel Corporation, having at a meeting regularly called for that purpose, voted in favor of the changes and amendments set forth in the above certificate, do now, pursuant to law, hereby give our written consent to the said changes and alterations.

Witness our hands this 1st day of April, A. D. 1901.

(Here follow signatures of incorporators and stockholders.)

(Acknowledgment.)

Form 11. By-Laws—Simple Form.

ARTICLE I.

Stockholders.

Section I. Stockholders' meetings shall be held at the principal office or place of business of this company.

Section II. The annual meeting of the stockholders of this company shall be held on the second Tuesday in January of each year at twelve o'clock, noon.

Section III. A notice of such meeting, written or printed shall be mailed to each stockholder at his postoffice address appearing upon the records of the company, ten days before each annual or special meeting of the stockholders, which notice, in case of a special meeting, shall state the object or objects for which it is called. Special meetings of the stockholders may be called by a like notice at any time by the president or by stockholders owning ten per cent. of the entire capital stock, whose names shall be signed to the notices of such meeting. No business shall be transacted at a special meeting except as stated in the notice sent to stockholders, unless by the unanimous consent of all stockholders, either in person or by proxy, all such stock being represented at the meeting.

Section IV. Upon failure to hold any annual meetings as herein provided, such meeting may be called by the president or by the holders of ten per cent. of the capital stock, in the same manner as a special meeting.

Section V. At any meeting of the stockholders a quorum for the transaction of business shall consist of a majority of the voting stock of the company represented by the stockholders in person or by proxy.

SECTION VI. Directors to manage the business of the corporation shall be elected at the annual meeting of the stockholders, which election shall be by ballot and shall be conducted by two inspectors appointed by the president for that purpose.

SECTION VII. At all stockholders' meeting, when questions are voted upon, each stockholder or his proxy may cast one vote for each share of stock owned by him.

SECTION VIII. All proxies shall be in writing and properly signed. Proxies shall not be granted for a longer period than six months.

SECTION IX. The president shall call each meeting of stockholders together, when they shall choose a chairman to preside over their meeting. The secretary of the company, or in his absence the secretary appointed by such chairman, shall keep a faithful record of the proceedings of all stockholders' meetings.

SECTION X. In case of any tie vote on an affirmative proposition, the motion shall be deemed to have been lost. No action shall be taken by virtue of any vote at a stockholders' meeting unless carried by a majority vote.

SECTION XI. The following order of business shall be observed at all annual and special meetings of the stockholders so far as practicable.

1. Ascertaining that a quorum is present.
2. Reading, correction and approval of minutes of previous meetings.
3. Reports of president, treasurer and secretary, respectively.
4. Reports of committees.
5. Election of directors.
6. Unfinished business.
7. New business.

ARTICLE II.

STOCK.

SECTION I. Certificates of stock shall be in a form adopted by the board of directors and shall be signed by the president or vice-president and the treasurer and attested by the corporate seal.

SECTION II. Certificates of stock shall be issued in numerical order from the stock certificate book and the certificates shall be numbered consecutively. Certificates as issued shall be taken from a stub book and a full record of each entered on the corresponding stub.

SECTION III. All certificates of stock transferred by indorsement thereon shall be surrendered for cancellation and new certificates issued to the purchasers or assignees. All surrendered certificates shall be indorsed with the date of cancellation and pasted to the corresponding stubs in the stock book.

SECTION IV. Transfers of stock may only be made upon the books of the company and no transfers shall be entered except upon the surrender of the certificate representing the transferred stock, properly indorsed. No transfers of stock shall be made within twenty days before a general election nor within ten days before the payment of a dividend.

SECTION V. The board of directors may issue duplicate certificates of stock upon proof that any such certificates have been lost or destroyed, taking a satisfactory bond of indemnity against any loss or claims that the company may incur by reason of issuing such duplicate certificates. But the board of directors may impose additional conditions before issuing such certificates and shall not be compelled to issue any duplicate certificates except upon the order of a court of competent jurisdiction.

SECTION VI. All stock of the company which may be donated to, or purchased by the company, shall be held subject to disposal by the action of the board of directors. It shall neither vote nor participate in dividends while so held.

ARTICLE III.

DIRECTORS AND OFFICERS.

SECTION I. A board of nine directors shall be chosen annually by the stockholders at their annual meeting, who shall constitute a governing board to manage the affairs of the company. And no person shall be elected nor serve as a director unless he shall own at least one share of stock in the company at the time of his election and continuously during his term of office.

SECTION II. All elections for directors shall be by ballot. The polls shall be open for at least one hour between the hours of 1:00 and 9:00 o'clock P. M.

SECTION III. Vacancies in the board of directors by reason of death, resignation or other cause shall be filled by the remaining directors choosing from among the stockholders a director to fill the unexpired term.

SECTION IV. In case of the death, resignation, or disqualification of the entire board of directors a new board may be elected for the unexpired term at a special meeting of the stockholders called for that purpose.

SECTION V. Resignations of directors shall be in writing addressed to the board.

SECTION VI. Any director may be removed from office for fraud, crime or misconduct in office by an affirmative vote of six directors, in which case the vacancy shall be filled by the board.

SECTION VII. The board of directors shall hold a meeting at the principal office of the company on the first Monday in each month and at other times on the call of the president or vice-president or of three members of the board.

SECTION VIII. The board of directors may adopt rules and regulations for the calling and conduct of meetings of the board and the management of the affairs of the company not inconsistent with law nor with these by-laws.

SECTION IX. At the first meeting of the board of directors each year, following the election of directors at the annual stockholders meeting, the board of directors shall choose a president, vice-president, secretary and treasurer, who shall serve for one year and until their successors are elected and qualified. The president and vice-president shall be members of the board of directors. The same person may be elected to two of such offices.

SECTION X. The salaries of all officers shall be fixed by the board of directors, and may be changed from time to time by a majority vote of the board.

SECTION XI. The president shall preside at all meetings and join with the secretary in executing all instruments of writing, requiring formal execution on the part of the company. He shall perform such other duties as are assigned him by the board of directors. The vice-president shall perform the duties and exercise the powers of the president in case of his absence or disability.

SECTION XII. The treasurer shall give a bond for the faithful performance of his duties in such sum and with such sureties as may be required by the board of directors. He shall have charge and custody of the funds of the company, subject to such regulation as to keeping them in a bank or trust company, and countersigning checks, as the board of directors may impose. He shall keep such books and account and make such reports as may be required by the board of directors.

SECTION XIII. The secretary shall keep a faithful record of the proceedings of all corporation meetings. He shall have charge of the corporation seal and of its stock and transfer books, and shall affix the seal to such instruments as are required by the board of directors, and make transfers of stock upon proper request, as provided by law and these by-laws. He shall keep such other books and perform such duties as the board of directors may prescribe.

LIBRARY OF THE UNIVERSITY OF CALIFORNIA

ARTICLE IV.

SEAL.

Section I. The seal of the company shall consist of two metal discs, with the name of the company, ... in circular form about the outer edge and the words "Corporation Seal, New York," in the center thereof, so mounted as to be capable of impressing said words on paper in raised letters.

ARTICLE V.

DIVIDENDS.

Section I. Dividends shall be declared annually, or oftener, as determined by the board of directors. The board of directors may, from time to time, transfer any part of the earnings of the company to a surplus fund, but no part of the net earnings of any year shall be set aside as surplus until after the payment of a dividend of at least four (4) per cent. upon the capital stock, out of the net profits.

ARTICLE VI.

AMENDMENTS.

Section I. These by-laws may be amended, repealed or altered at any regular meeting of the stockholders or at any special meeting called for that purpose upon due notice of its object by a majority vote of the stock represented at such meeting.

Section II. The board of directors may suspend the effect of any by-law and enact a substitute therefor, to be effective until the proposed amendment, repeal, or alteration shall be submitted to a stockholders' meeting, if two-thirds of all the directors shall vote in favor of such action.

Section III. The board of directors may enact any additional by-laws not inconsistent with law or the by-laws adopted by the stockholders.

Form 12. By-Laws of United States Steel Corporation.

ARTICLE I.

STOCKHOLDERS.

Section 1. *Annual Meeting.* A meeting of the stockholders of the company shall be held annually at the principal office of the company in the state of New Jersey at twelve o'clock noon on the third Monday in February in each year, if not a legal holiday, and if a legal holiday, then on the next succeeding Monday not a legal holiday, for the purpose of electing directors, and for the transaction of such other business as may be brought before the meeting.

It shall be the duty of the secretary to cause notice of each annual meeting to be published once in each of the four calendar weeks next preceding the meeting in at least one newspaper in each of the following places: Jersey City, N. J.; New York, N. Y.; Chicago, Ill., and Pittsburg, Pa. Nevertheless, a failure to publish such notice, or any irregularity in such notice, or in the publication thereof, shall not affect the validity of any annual meeting, or any proceedings at any such meeting.

SECTION 2. *Special meetings.* Special meetings of the stockholders may be held at the principal office of the company in the state of New Jersey, whenever called in writing, or by a vote, by a majority of the board of directors.

Notice of each special meeting, indicating briefly the object or objects thereof, shall, by the secretary, be published once in each of the four calendar weeks next preceding the meeting in at least one newspaper in each of the following places: Jersey City, N. J.; New York, N. Y.; Chicago, Ill., and Pittsburg, Pa. Nevertheless, if all the stockholders shall waive notice of a special meeting, no notice of such meeting shall be required; and whenever all the stockholders shall meet in person or by proxy, such meeting shall be valid for all purposes without call or notice, and at such meeting any corporate action may be taken.

SECTION 3. *Quorum.* At any meeting of the stockholders the holders of one-third of all the shares of the capital stock of the company, present in person or represented by proxy, shall constitute a quorum of the stockholders for all purposes, unless the representation of a larger number shall be required by law, and, in that case, the representation of the number so required shall constitute a quorum.

If the holders of the amount of stock necessary to constitute a quorum shall fail to attend in person or by proxy at the time and place fixed by these by-laws for an annual meeting, or fixed by notice as above provided for a special meeting, called by the directors, a majority in interest of the stockholders present in person or by proxy may adjourn, from time to time, without notice other than by announcement at the meeting, until holders of the amount of stock requisite to constitute a quorum shall attend. At any such adjourned meeting at which a quorum shall be present any business may be transacted which might have been transacted at the meeting as originally notified.

SECTION 4. *Organization.* The president, and in his absence the chairman of the executive committee, shall call meetings of the stockholders to order, and shall act as chairman of such meetings. The board of directors may appoint any stockholder to act as chairman of any meetings in the absence of the president and of the chairman of the executive committee.

The secretary of the company shall act as secretary at all meetings of the stockholders; but in the absence of the secretary at any meeting of the stockholders the presiding officer may appoint any person to act as secretary of the meeting.

SECTION 5. *Voting.* At each meeting of the stockholders every stockholder shall be entitled to vote in person, or by proxy appointed by instrument in writing, subscribed by such stockholder or by his duly authorized attorney, and delivered to the inspectors at the meeting; and he shall have one vote for each share of stock standing registered in his name at the time of the closing of the transfer books for said meeting. The votes for directors, and, upon demand of any stockholder, the votes upon any question before the meeting, shall be by ballot.

At each meeting of the stockholders a full, true and complete list, in alphabetical order, of all the stockholders entitled to vote at such meeting, and indicating the number of shares held by each, certified by the secretary or by the treasurer, shall be furnished. Only the person in whose names shares of stock stand on the books of the company at the time of the closing of the transfer books for such meeting, as evidenced by the list of stockholders so furnished, shall be entitled to vote in person or by proxy on the shares so standing in their names.

Prior to any meeting, but subsequent to the time of closing the transfer books for such meeting, any proxy may submit his powers of attorney to the secretary, or to the treasurer, for examination. The certificate of the secretary, or of the treasurer, as to the regularity of such powers of attorney, and as to the number of shares held by the persons who severally and respectively executed such powers of attorney shall be received as *prima facie* evidence of the number of shares represented by the holder of such powers of attorney for the purpose of establishing the presence of a quorum at such meeting, and of organizing the same and for all other purposes.

SECTION 6. *Inspectors.* At each meeting of the stockholders the polls shall be opened and closed; the proxies and ballots shall be received and be taken in charge, and all questions touching the qualification of voters and the validity of proxies, and the acceptance or rejection of votes, shall be decided by three inspectors.

Such inspectors shall be appointed by the board of directors before or at the meeting, or, if no such appointment shall have been made, then by the presiding officer at the meeting. If for any reason any of the inspectors previously appointed shall fail to attend or refuse or be unable to serve, inspectors in place of any so failing to attend, or refusing or unable to attend, shall be appointed in like manner.

ARTICLE II.

BOARD OF DIRECTORS.

SECTION 1. *Number, classification and term of office.* The business and the property of the company shall be managed and controlled by the board of directors.

As provided in the certificate of incorporation, the directors shall be classified in respect of the time for which they shall severally hold office, by dividing them into three classes, each class consisting of one-third of the whole number of the board of directors. The directors of the first class shall be elected for a term of one year; the directors of the second class shall be elected for a term of two years; the directors of the third class shall be elected for a term of three years. At each annual election the successors to the directors of the class whose terms shall expire in that year shall be elected to hold office for the term of three years, so that the term of office of one class of directors shall expire in each year.

The number of directors shall be twenty-four, but the number of directors may be altered from time to time by the alteration of these by-laws.*

In case of any increase of the number of directors, the additional directors shall be elected by the directors then in office; one-third of such additional directors for the unexpired portion of the term of one year; one-third for the unexpired portion of the term of two years, and one-third for the unexpired portion of the term of three years, so that each class of directors shall be increased equally.

Every director shall be a holder of at least one share of the capital stock of the company. Each director shall serve for the term for which he shall have been elected, and until his successor shall have been duly chosen.

At all elections of the directors the polls shall remain open for at least one hour, unless every registered owner of shares has sooner voted in person or by proxy, or in writing has waived the statutory provision.

---

* In states where the number of directors is fixed by statute, or where the statute requires that the number be fixed by the articles of incorporation, this clause should be omitted.

SECTION 2. *Vacancies.* In case of any vacancy in the directors of any class through death, resignation, disqualification or other cause, the remaining directors, by affirmative vote of a majority thereof, may elect a successor to hold office for the unexpired portion of the term of the director whose place shall be vacant, and until the election of his successor.

Such vacancy shall be filled upon and after nominations therefor shall have been made by the finance committee.

SECTION 3. *Place of Meeting, etc.* The directors may hold their meetings, and may have an office and keep the books of the company (except as otherwise may be provided for by law) in such place or places in the state of New Jersey or outside of the state of New Jersey as the board from time to time may determine.

SECTION 4. *Regular Meetings.* Regular meetings of the board of directors shall be held monthly on the first Tuesday of each month, if not a legal holiday, and if a legal holiday, then on the next succeeding Tuesday not a legal holiday. No notice shall be required for any such regular monthly meeting of the board.

SECTION 5. *Special Meetings.* Special meetings of the board of directors shall be held whenever called by the president, or by one-third of the directors for the time being in office.

The secretary shall give notice of each special meeting by mailing the same at least two days before the meeting or by telegraphing the same at least one day before the meeting to each director; but such notice may be waived by any director. At any meeting at which every director shall be present, even though without any notice, any business may be transacted.

SECTION 6. *Quorum.* A majority of the board of directors shall constitute a quorum for the transaction of business; but, if at any meeting of the board, there be less than a quorum present, a majority of those present may adjourn the meeting from time to time.

The affirmative vote of at least two-fifths of all the directors for the time being in office shall be necessary for the passage of any resolution.

SECTION 8. *Order of Business.* At meetings of the board of directors business shall be transacted in such order as, from time to time, the board may determine by resolution.

At all meetings of the board of directors the president, or in his absence, the chairman of the executive committee, or in the absence of both of these officers, the chairman of the finance committee shall preside.

SECTION 9. *Contracts.* Inasmuch as the directors of this company are men of large and diversified business interests, and are likely to be connected with other corporations with which from time to time this company must have business dealings, no contract or other transaction between this company and any other corporation shall be affected by the fact that directors of this company are interested in, or are directors or officers of, such other corporation if, at the meeting of the board, or of the committee of this company making, authorizing or confirming such contract or transaction, there shall be present a quorum of directors not so interested; and any director individually may be a party to, or may be interested in, any contract or transaction of this company, providing that such contract or transaction shall be approved or be ratified by the affirmative vote of at least ten directors not so interested.

The board of directors in its discretion may submit any contract or act for approval or ratification at any annual meeting of the stockholders, or at any meeting of the stockholders called for the purpose of considering any such act or contract, and any contract or act that shall be approved or be ratified by the vote of the holders of a majority of the capital stock of the company which is represented in person or by proxy at such meetings (provided that a lawful quorum of stockholders be there represented in person or by proxy) shall be as valid and as binding upon the corporation and upon all the stockholders as though it had been approved or ratified by every stockholder of the corporation.

SECTION 10. *Compensation of Directors.* For his attendance at any meeting of the board of directors, or of any committee of the board, every director shall receive an allowance of ten cents for every mile traveled by him for attendance at such meeting, and also the sum of twenty dollars for attendance at each meeting. The same mileage allowance shall be made to any officer who, by direction of the board, or of the president, shall attend any such meeting.

ARTICLE III.

EXECUTIVE COMMITTEE AND FINANCE COMMITTEE.

SECTION 1. The board of directors shall elect from the directors an *executive committee* and a *finance committee*, and shall designate for each of those committees a chairman, who shall continue to be chairman of the committee during the pleasure of the board of directors.

The board of directors shall fill vacancies in the executive committee or in the finance committee by election from the directors, and at all times it shall be the duty of the board of directors to keep the membership of each of such committees full, with due regard to the qualifications for such membership indicated in this article of the by-laws.

All action by the executive committee, or by the finance committee, shall be reported to the board of directors at its meeting next succeeding such action, and shall be subject to revision or alteration by the board of directors; *provided*, that no rights or acts of third parties shall be affected by any such revision or alteration.

The executive committee and the finance committee each shall fix its own rules of proceeding, and shall meet where and as provided by such rules, or by resolution of the board of directors, but in every case the presence of a majority shall be necessary to constitute a quorum.

In every case the affirmative vote of a majority of all the members of the committee shall be necessary to its adoption of any resolution.

The chairman and each of the members of the executive committee shall receive such compensation for their services as from time to time shall be fixed by the finance committee and be approved by the board of directors.

SECTION 2. *The executive committee* shall consist of six members, besides the president, and the chairman of the finance committee, each of whom, by virtue of his office, shall be a member of the executive committee. So far as practicable each of the six elected members of the executive committee shall be a person having, or having had, personal experience in the conduct of one or the other of the branches of manufacture or mining, or of transportation in which the company is interested; and, so far as practicable, the six elected members shall be taken equally from the three classes of directors. Unless otherwise ordered by the board of directors, each elected member of the executive committee shall continue to be a member thereof until the expiration of his term of office as a director.

During the intervals between the meetings of the board of directors the executive committee shall possess, and may exercise, all the powers of the board of directors in the management and direction of the manufacturing, mining and transportation operations of the company, and of all other business and affairs (except the matters hereinafter assigned to the finance committee) in such manner as the executive committee shall deem best for the interests of the company, in all cases in which specific directions shall not have been given by the board of directors.

During the intervals between the meetings of the executive committee the chairman thereof shall possess and may exercise such of the powers vested in the executive committee as from time to time may be conferred upon him by resolution of the board of directors, or of the executive committee.

SECTION 3. *The finance committee* shall consist of four members, besides the president, and the chairman of the executive, each of whom, by virtue of his office, shall be a member of the finance committee. So far as practicable each of the four elected members of the finance committee shall be a person of experience in matters of finance, and so far as practicable the four elected members shall be taken equally from the three classes of directors. Unless otherwise ordered by the board of directors, each elected member of the finance committee shall continue to be a member thereof until the expiration of his term of office as a director.

The finance committee shall have special and general charge and control of all financial affairs of the company. The general counsel, the treasurer, the auditor and the secretary, and their respective offices, shall be under the direct control and supervision of the finance committee.

During the intervals between the meetings of the board of directors, the finance committee shall possess, and may exercise, all the powers of the board of directors in the management of the financial affairs of the company, including its purchases of property and the execution of legal instruments with or without the corporate seal in such manner as said committee shall deem to be best for the interests of the company, in all cases in which specific directions shall not have been given by the board of directors.

During the intervals between the meetings of the finance committee, and subject to its review, the chairman thereof shall possess, and may exercise any of the powers of the committee, except as from time to time shall be otherwise provided by resolution of the board of directors, or of the finance committee, but not of the executive committee.

Except as otherwise provided by the by-laws, or by resolution of the board of directors, all salaries and compensations paid or payable by the company shall be fixed by the finance committee.

No director shall become a salaried employe of the company except by special vote of the finance committee.

ARTICLE IV.

OFFICERS.

SECTION 1. *Officers.* The executive officers of the company shall be a president, a vice-president, or more than one vice-president, a general counsel, a treasurer, a secretary and an auditor, all of whom shall be elected by the board of directors.

The board of directors may appoint such other officers as they shall deem necessary, who shall perform such duties as from time to time may be prescribed by the board of directors.

The powers and duties of the treasurer and secretary may be exercised and performed by the same person.

In its discretion the board of directors, by the vote of a majority thereof, may leave unfilled for any such period as it may fix by resolution any office except those of president, treasurer, secretary and auditor.

All officers and agents shall be subject to removal at any time by the affirmative vote of a majority of the whole board of directors. All officers, agents and employes, other than officers appointed by the board of directors, shall hold office at the discretion of the committee or of the officer appointing them.

The finance committee shall have power to suspend the general counsel, the treasurer, the secretary and the auditor, and to remove any one in the department of the general counsel, of the treasurer, or of the secretary or of the auditor. The executive committee shall have power to remove all officers, agents and employes of the company, except officers elected or appointed by the board of directors, and except officers, agents and employes in the department of the treasurer, of the secretary, of the general counsel or of the auditor.

SECTION 2. *Powers and Duties of the President.* The president shall preside at all meetings of the stockholders, and of the board of directors, and by virtue of his office he shall be a member (but not chairman) of the executive committee and of the finance committee. Subject to the executive committee, he shall have general charge of the business of the company, including manufacturing, mining and transportation, may sign and execute all authorized bonds, contracts or other obligations in the name of the company, and with the treasurer or an assistant treasurer may sign all certificates of the shares in the capital stock of the company. He shall do and perform such other duties as from time to time may be assigned to him by the board of directors.

SECTION 3. *Vice-Presidents.* The board of directors may appoint a vice-president or more than one vice-president. Each vice-president shall have such powers and shall perform such duties as may be assigned him by the board of directors.

SECTION 4. *The General Counsel.* The general counsel shall be the chief consulting officer of the company in all legal matters, and, subject to the board of directors and the finance committee, shall have general control of all matters of legal import concerning the company.

SECTION 5. *Powers and Duties of Treasurer.* The treasurer shall have custody of all the funds and securities of the company which may have come into his hands; when necessary or proper he shall indorse, on behalf of the company for collection, checks, notes and other obligations, and shall deposit the same to the credit of the company in such bank or banks or depositary as the board of directors or the finance committee may designate; he shall sign all receipts and vouchers for payments made to the company; jointly with such other officer as may be designated by the finance committee he shall sign all checks made by the company, and shall pay out and dispose of the same under the direction of the board or of the finance committee; he shall sign, with the president, or such other person or persons as may be designated for the purpose by the board of directors or the finance committee, all bills of exchange and promissory notes of the company; he may sign, with the president or a vice-president, all certificates of shares in the capital stock; whenever required by the board of directors or by the finance committee he shall render a statement of his cash account; he shall enter regularly, in books of the company to be kept by him for the purpose, full and accurate accounts of all moneys received and paid by him on account of the company; he shall, at all reasonable times, exhibit his books and accounts to any director of the company upon application at the office of the company during business hours, and he shall perform all acts incident to the position of treasurer, subject to the control of the board of directors or of the finance committee. By virtue of his office the treasurer shall be assistant secretary.

He shall give a bond for the faithful discharge of his duties in such sum as the board of directors or the finance committee may require.

SECTION 6. *Assistant Treasurers.* The board of directors or the finance committee may appoint an assistant treasurer or more than one assistant treasurer. Each assistant treasurer shall have such powers and shall perform such duties as may be assigned to him by the board of directors, or by the finance committee.

SECTION 7. *Powers and Duties of Secretary.* The secretary shall keep the minutes of all meetings of the board of directors, and the minutes of all meetings of the stockholders, and also (unless otherwise directed by the finance committee) the minutes of all committees in books provided for that purpose; he shall attend to the giving and serving of all notices of the company; he may sign with the president in the name of the company all contracts authorized by the board of directors, or by the finance committee, and, when so ordered by the board of directors or the finance committee, he shall affix the seal of the company thereto; he shall have charge of the certificate books, transfer books and stock ledgers, and such other books and papers as the board of directors or the finance committee may direct, all of which shall, at all reasonable times, be open to the examination of any director, upon application at the office of the company during business hours, and he shall in general perform all the duties incident to the office of secretary, subject to the control of the board of directors and of the finance committee. By virtue of his office the secretary shall be assistant treasurer.

SECTION 8. *Assistant Secretaries.* The board of directors or the finance committee may appoint one assistant secretary or more than one assistant secretary. Each assistant secretary shall have such powers and shall perform such duties as may be assigned to him by the board of directors, or by the finance committee.

SECTION 9. *Auditor.* The auditor shall be the principal officer in charge of the accounts of the company, and shall perform such duties as from time to time may be assigned to him by the board of directors or the finance committee.

SECTION 10. *Voting upon Stocks.* Unless otherwise ordered by the board of directors, or by the finance committee, the chairman of the finance committee or the chairman of the executive committee shall have full power and authority in behalf of the company to attend and to act and to vote at any meetings of the stockholders of any corporation in which the company may hold stock, and at any such meeting shall possess and may exercise any and all the rights and powers incident to the ownership of such stock and which, as the owner thereof, the company might have possessed and exercised if present. The board of directors of the finance committee, by resolution, from time to time, may confer like powers upon any other person or persons.

ARTICLE V.

CAPITAL STOCK—SEAL.

SECTION 1. *Certificates of Shares.* The certificates for shares of the capital stock of the company shall be in such form, not inconsistent with the certificate of incorporation, as shall be prepared or be approved by the board of directors. The certificates shall be signed by the president or a vice-president, and also by the treasurer or an assistant treasurer.

All certificates shall be consecutively numbered. The name of the person owning the shares represented thereby, with the number of such shares and the date of issue, shall be entered on the company's books.

No certificate shall be valid unless it be signed by the president or a vice-president, and by the treasurer or an assistant treasurer. All certificates surrendered to the company shall be cancelled, and no new certificate shall be issued until the former certificate for the same number of shares of the same class shall have been surrendered and canceled.

SECTION 2. *Transfer of Shares.* Shares in the capital stock of the company shall be transferred only on the books of the company by the holder thereof in person, or by his attorney, upon surrender and cancellation of certificates for a like number of shares.

SECTION 3. *Regulations.* The board of directors, and the finance committee also, shall have power and authority to make all such rules and regulations as respectively they may deem expedient concerning the issue, transfer and registration of certificates for shares of the capital stock of the company.

The board of directors or the finance committee may appoint a transfer agent and a registrar of transfers, and may require all stock certificates to bear the signature of such transfer agent and of such registrar of transfers.

SECTION 4. *Closing of Transfer Books.* The stock transfer books shall be closed for the meetings of the stockholders, and for the payment of dividends, during such periods as from time to time may be fixed by the board of directors or by the finance committee, and during such periods no stock shall be transferable.

SECTION 5. *Dividends.* The board of directors may declare dividends from the surplus or net profits of the company over and above the amount which from time to time may be fixed by the board as the amount to be reserved as working capital.

The dates for the declaration of dividends upon the preferred stock and upon the common stock of the company *shall be the days* by these by-laws fixed for the regular monthly meetings of the board of directors in the months of April, July, October and January in each year, on which days the board of directors, in its discretion, shall declare what, if any, dividends shall be declared upon the preferred stock, and the common stock, or either of such stocks.

The dividends on the preferred stock shall be payable quarterly on the fourth Wednesday next after the several dates of the declaration thereof.

SECTION 6. *Working Capital.* The directors shall not be required in January in each year, after reserving, over and above its capital stock paid in as a working capital for said corporation, such sum, if any, as shall have been fixed by the stockholders, to declare a dividend among its stockholders of the whole of its accumulated profits exceeding the amount so reserved, and pay the same to such stockholders on demand; but the board of directors may fix a sum which may be set aside or reserved, over and above the company's capital paid in, as a working capital for the company, and from time to time they may increase, diminish and vary the same in their absolute judgment and discretion.*

SECTION 7. *Corporate Seal.* The board of directors shall provide a suitable seal, containing the name of the company, which seal shall be in charge of the secretary, if and when so directed by the board of directors or by the finance committee. A duplicate of the seal may be kept and used by the treasurer or by any assistant secretary or assistant treasurer.

ARTICLE VI.

AMENDMENTS.

SECTION 1. The board of directors shall have power to make, amend and repeal the by-laws of the company, by a vote of a majority of all of the directors, at any regular or special meeting of the board, *provided*, that notice of intention to make, amend or repeal the by-laws in whole or in part shall have been given at the next preceding meeting; or without any such notice, by a vote of two-thirds of all of the directors.

Form 13. Common Form of Common Stock Certificate and Stub.

United States of America—Incorporated under the laws of Indiana.

NUMBER.	SHARES.
17	50

THE KING-RICHARDSON MANUFACTURING COMPANY, Indianapolis, Ind.

This Certifies that Charles Bishop is the owner of fifty shares of the capital stock of The King-Richardson Manufacturing Company, of Indianapolis, transferable only on the books of the Corporation by the holder hereof in person or by attorney upon surrender of this certificate properly indorsed.

IN WITNESS WHEREOF, the said corporation has caused this certificate to be signed by its duly authorized officers and to be [SEAL] sealed with the seal of the corporation this ninth day of May, A. D., 1901.

FRANK RICHARDSON, Treasurer.

JOHN M. KING, President.

---

* This is a very poorly worded section.

(Stub.)
CERTIFICATE*
No. 17.
For fifty (50) Shares.
Issued to
Charles Bishop, Indianapolis.
Dated May 9, 1901.
From Whom Transferred
....
Dated ...., 190..

NO. ORIGINAL CERTIFICATE.	NO. ORIGINAL SHARES.	NO. OF SHARES TRANSFERRED.
....	....	....
....	....	....
....	....	....

Received Certificate No. 17. For fifty (50) Shares this 10th day of May, 1901. Charles Bishop.

Form 14. Common Stock Certificate Containing Notice and Terms of Preferred Stock Issue.

United States of America—Incorporated under the laws of Indiana.

NUMBER. SHARES.
54 ..

Clark & Roberts Company, Indianapolis, Ind.
Main office, Indianapolis, Ind.

CAPITAL STOCK, COMMON STOCK, $150,000
$200,000 PREFERRED STOCK, 50,000

This Certifies that .... is the owner of ...... shares of one hundred $100) dollars each of the common† Capital stock of the Clark & Roberts Company. This certificate is transferable only on the books of the company at Indianapolis, Ind., by the owner thereof, in person or by duly authorized attorney, upon its surrender property indorsed.

It is mutually agreed between the holder hereof and the Clark & Roberts Company and its stockholders as follows: The preferred capital stock is entitled to receive preferential dividends from the net earnings of the company at the rate of seven (7) per centum per annum, payable semi-annually, before any dividend shall be set apart or paid from the earnings of any period upon the common capital stock.

---

* This form will also answer for the stub of a preferred stock certificate, but if both common and preferred stock have been issued the heading may specify the kind of certificate issued.

† The word "Preferred" appears here on the preferred certificate of this company, which is the only difference in wording.

Dividends upon the preferred stock shall be cumulative, and if the proportion of the net earnings set apart in any year for dividends shall not be sufficient to pay the dividend for such year at the rate of seven (7) per centum per annum upon said preferred capital stock, then the same shall be made up from any profits of any later period. After declaring and providing for the payment of a semi-annual dividend of three and one-half (3½) per centum upon the preferred capital stock, together with arrearages of dividends due thereon, such portion of the remaining net earnings set apart for dividends may be used for paying dividends on the common capital stock as the board of directors may decide.

The power to fix the amount to be reserved as working capital for the organization, and the power to declare dividends from the net earnings of the company are vested in the board of directors. The dividends upon the common capital stock of the company may be declared and made payable semi-annually or annually, as the board of directors may from time to time determine. The par value of the preferred capital stock, in the event of insolvency or dissolution of the company, making necessary a distribution of the assets, shall be repaid in full after the payment of its obligations, before any sum whatever shall be distributed upon the common capital stock; but after a complete repayment of the par value of the preferred capital stock, together with arrearages of dividends due thereon, the common capital stock shall be entitled to receive the entire assets remaining. Preferred capital stock, in whole or in part, may, after twenty years from date of issue, at the time of paying any semi-annual dividend, be retired by the corporation at par, upon six months' notice in writing, by paying the owner or owners thereof the par value, together with any dividends due thereon. Preferred stock may be purchased and cancelled by the board of directors by agreement with the holder thereof, at any time after one year from the date of its issue.

Witness the corporate seal of The Clark & Roberts Company and the signature of its president and treasurer.

Dated: Indianapolis, Indiana, this ...... day of ......, 190..

....

Treasurer. President.

Shares $100 each.

Form 15. Sentence Granting Additional Pro Rata Dividend to Preferred Stock.

"This preferred stock is entitled to share *pro rata* with the common stock in any dividend exceeding six per cent. on the whole stock of said corporation, both preferred and common."

Form 16. Founders' Shares—Stock Certificate.

Incorporated under the laws of New Jersey.

NUMBER. **SHARES.**

MORGAN MILLING COMPANY, Trenton, New Jersey.
Capital Stock, $100,000.

This certifies that .... is the owner of ...... founders' shares, numbered (giving them), of one hundred dollars each, of the capital stock of the Morgan Milling Company. This certificate is transferable only on the books of the company by the owner thereof in person, or by duly authorized attorney, upon its surrender properly indorsed.

It is mutually agreed between the said company and the holder hereof that said founders' shares are subject to the provisions of a certain resolution adopted by the stockholders of said company on the ...... day of ......, 1905, which provided for the creation and issue of not more than two hundred founders' shares of the par value of one hundred dollars each of the capital stock of said company, subject to redemption as specified in said resolution. And the holder of this certificate acknowledges notice of all the provisions of said resolution, and hereby assents to the same and agrees to hold his said founders' shares evidenced by this certificate subject thereto.

IN WITNESS WHEREOF the said Morgan Milling Company has caused the names of its president and treasurer to be signed to this certificate and its corporate seal to be affixed hereto.

[SEAL.]

....
Treasurer. President.
Attest .... Secretary.

Form 17. Certificate Form Used by Standard Oil Company.

This is to certify that .... is entitled to ...... shares of one hundred dollars each in the capital stock of the Standard Oil

Company, transferable on the books of the company in person or by attorney only on the surrender of this certificate and the payment of all liabilities on the part of the holder to the company subject to the provisions of law and the by-laws of the company. (Witnessed by signatures of president and secretary.)

Form 18. Form of Assignment and Transfer on Back of Stock Certificate.

For value received, I hereby sell, assign, and transfer unto Charles Holliday, of Indianapolis, twenty (20) shares of the capital stock represented by the within certificate, and do hereby irrevocably constitute and appoint Harry Alter my attorney to transfer the said stock on the book of the within named corporation with full power of substitution in the premises.

Dated June 12, 1904.

In presence of RICHARD MARTINDALE.
LEROY SCOTT,
Witness.

Form 19. First Mortgage Gold Bond of the Indianapolis and Cincinnati Traction Company.

(Convertible from Coupon to Registered Bond.)

The Indianapolis and Cincinnati Traction Company. First Mortgage Five Per Cent. Gold Bond. No. 1263.

Be it known that The Indianapolis and Cincinnati Traction Company, incorporated under the laws of Indiana, for value received, promises to pay to the bearer hereof, or if this bond shall be registered, then to the holder hereof registered according to the provisions hereinafter contained, without relief from valuation or appraisement laws, the sum of ONE THOUSAND DOLLARS in gold coin of the United States of the present standard of weight and fineness, at the office of the Farmers' Loan and Trust Company in the city of New York, on the first day of July, 1933, and also to pay interest thereon in like coin at the rate of five per cent. per annum on the first days of January and July in each year to the bearer of the respective coupons for such interest hereto annexed upon presentation thereof, at the time and place therein mentioned; but if the promisor shall make any default for six months in the payment of any interest hereon, or on any bond of this issue, the principal sum hereby secured shall become due and payable at any time thereafter while the interest remains in default, at the election of a majority in interest of the holders of the bonds secured by the indenture hereinafter mentioned at the time outstanding. Both the principal and interest of this bond are payable without deduction for any tax or taxes which the promisor may be required to pay or retain therefrom under any present or future law of the United States, or of the state of Indiana, or any county or municipality therein. This bond is one of a series of four thousand similar bonds, amounting in the aggregate to four million dollars, all of which are equally secured by an indenture of first mortgage, dated the first day of July, 1903, whereby all the property, real and personal, easements, rights, franchises, and privileges, present and future, of the Indianapolis and Cincinnati Traction Company are mortgaged to the Farmers' Loan and Trust Company as trustee for the bondholders. No recourse shall be had for the payment of the principal or interest of this bond against any stockholder, officer or director of the promisor, either directly or through the promisor, by virtue of any statute, or by enforcement of any assessment or otherwise, and any and all personal liability of the officers, directors and stockholders of the promisor in respect of said bonds is hereby expressly waived and released by every holder hereof. This bond until registered shall pass by delivery. This bond may be registered in books to be kept for that purpose at the office of the trustee, in the city of New York, and if so registered will thereafter be transferable only upon the said books at the office of the trustee by the owner in person or by attorney, unless the last preceding registration shall have been to bearer and the transfer by delivery thereby restored, and it shall continue to be susceptible of successive registrations and transfers at the option of the holder, but such registration shall not affect the negotiability of the annexed coupons. This bond is valid only when the Farmers' Loan and Trust Company has indorsed hereon a certificate that it is one of the bonds in the said indenture specified.

Witness the corporate seal of the Indianapolis and Cincinnati Traction Company and the signatures of its president and secretary on its behalf, the first day of July, in the year 1903.

THE INDIANAPOLIS AND CINCINNATI TRACTION COMPANY,
by

...................., ...,
Secretary. President.

TRUSTEE'S CERTIFICATE.
(On back of bond.)

The Farmers' Loan and Trust Company hereby certifies that this bond is one of the series described in the within mentioned mortgage amounting in the aggregate to four million dollars.

THE FARMERS' LOAN AND TRUST COMPANY, Trustee.
By ...., President.

Form 20. Sinking Fund Bond.

[On the back the title as follows.]

No............ The Keithsburg Bridge Company First Mortgage Six Per Cent. Sinking Fund Bond, $1,000. Guaranteed by the Central Iowa Railway Company. Interest payable June 1st and December 1st. Principal due Just 1st, 1925.

TRUSTEE'S CERTIFICATE.—The Central Trust Company of New York hereby certifies that this bond is one of a series of bonds described in the mortgage or trust deed, within mentioned, and has been certified by this company in accordance with the terms of said trust deed. CENTRAL TRUST CO. OF NEW YORK, Trustee, by .... President.

[On the face.]

No............ $1,000.

STATES OF ILLINOIS AND IOWA.
THE KEITHSBURG BRIDGE COMPANY.
FIRST MORTGAGE SIX PER CENT. SINKING FUND BOND.
GUARANTEED BY THE CENTRAL IOWA RAILWAY COMPANY.

Know all men by these presents, That the Keithsburg Bridge Company, a corporation organized and existing under the laws of the state of Illinois and vested also with certain franchises conferred by an act of congress, approved April 26, 1882, entitled "An Act to authorize the construction of a bridge across the Mississippi river at or near Keithsburg, in the state of Illinois, and to establish it as a Post Road," is indebted to the Central Trust Company of New York, or bearer, in the sum of one thousand dollars, lawful money of the United States of America, which the said Bridge Company promises to pay to the bearer hereof in the city of New York, on the first day of June, in the year one thousand nine hundred and twenty-five, with interest thereon at the rate of six per cent. per annum, payable in the like lawful money, at its office or agency in the city of New York, on the first days of June and December in each year, upon the presentation and surrender of the coupons hereto attached as they severally become due, as provided herein. And in case of default in the payment of any half-yearly instalment of interest which shall have become due and been demanded, and such default shall have continued six months after demand, or in case of default in the payment of any sum into the sinking fund, as hereinafter provided, the principal of this bond shall become due in the manner and with the effect provided for in the trust deed or mortgage hereinafter mentioned. This bond is one of a series of six hundred bonds, numbered consecutively from 1 to 600, both inclusive, each for the sum of one thousand dollars, amounting in the aggregate to six hundred thousand dollars, all of like tenor, date and effect, and all equally secured by a trust deed or mortgage bearing even date herewith, duly executed and delivered by the said Bridge Company, and duly recorded in the proper offices in the states of Illinois and Iowa, and conveying to said Central Trust Company of New York, in trust, the bridge of the said Keithsburg Bridge Company, as the same is now, or may hereafter be, constructed across the Mississippi river, from a point in or near Keithsburg, in the state of Illinois, to a point in or near the township of Elliot, in the county of Louisa, in the state of Iowa, together with the approaches thereto on either side of said river, and all lands and real estate which said Bridge Company is or may become entitled to by reason of the construction of the said bridge, with the appurtenances thereto belonging; also, the rents, issues and profits of said bridge, so far as the same are not required to pay the necessary current expenses of maintaining, keeping in repair, and operating the said bridge. And also, all and singular the rights, privileges, corporate property and franchises of said Bridge Company, set forth in said trust deed or mortgage. This bond is entitled to the benefit of a sinking fund as provided by said trust deed or mortgage, whereby the principal of said bond will be redeemed in forty years from the date thereof. Bonds equal in amount to the accumulation of said sinking fund will be redeemed at their par value, annually, commencing after three years from the date hereof. This bond is also subject to allotment for payment and redemption, as provided in said trust deed or mortgage, on any day on which interest is payable thereon. Notice of the numbers of the bonds allotted for redemption will be published in two or more daily newspapers printed in the city of New York, for sixty days, at the expiration of which time the interest thereon shall cease. This bond is further secured by the guaranty of the Central Iowa Railway Company indorsed hereon, of the payment of the principal and interest thereof and of the sums payable into the sinking fund. This bond shall pass by delivery or by transfer on the books of the company in the city of New York, and such other places as said company may designate. After a registration of ownership certified hereon by the secretary of the company or its transfer agent, no transfer, except on the books of the company, shall be valid unless the last transfer shall have been to bearer, the bond to be entitled to successive registrations and transfers to bearer at the option of each holder. This bond is to be valid only when authenticated by the certificate of the trustee indorsed hereon.

In witness whereof, the said Keithsburg Bridge Company has caused its corporate seal to be hereto affixed, and these presents to be attested by its president and secretary, this first day of June, 1885.

....	....
Secretary.	President.

[Also on the back.]

Guarantee of the Central Iowa Railway Company.—The Central Iowa Railway Company, for value received, hereby guarantees the prompt payment of, and agrees to pay in the city of New York, all the coupons attached to the within bond as they severally become due; and also the sums payable into the sinking fund therein mentioned; and also the principal of this bond at maturity, subject to the right to redeem the same before maturity.

In witness whereof, the said Railway Company has caused its corporate seal to be hereto affixed, and the same to be attested by the signatures of its president and secretary, this ...... day of ......, A. D. 19..

....	....
Secretary.	President.

Notice!—No writing on this bond except by an officer of the company.

DATE OF REGISTRY.	IN WHOSE NAME REGISTERED.	TRANSFER AGENT.
....	....	....
....	....	....
....	....	....

[On the end, eighty coupons, numbered on the back, and dated each first day of June and December, from 1885 to 1925, the face of the first one reading:]

Coupon No. 1.—The Keithsburg Bridge Company will pay the bearer Thirty Dollars, at its office or agency in the city of New York, on the first day of December, A. D. 1885, being six months' interest on its First Mortgage Bond No. ...... C. W. Osborne, *Treasurer.*

Form 21. Income Gold Bond.

$500 UNITED STATES OF AMERICA. $500
ATCHISON, TOPEKA AND SANTA FE RAILROAD COMPANY.
FIVE PER CENT. INCOME GOLD BOND.

No............

For value received, The Atchison, Topeka and Santa Fe Railroad

Company promises to pay to bearer, or in case of registration to the registered holder hereof, the sum of Five Hundred Dollars, on the first day of July, one thousand nine hundred and eighty-nine, together with interest thereon when earned at the rate of not exceeding five per centum per annum, payable only out of surplus net earnings, if any, on the first day of September, in the year 1890, and upon the same day in each year hereafter, on the presentation and surrender of the coupons annexed and to be annexed hereto, as they severally mature, both principal and interest being payable in gold coin of the United States of America, of the present standard of weight and fineness, or its equivalent, at the agencies of the said Atchison Company in the cities of Boston or New York, or at the office of Baring Brothers & Company, London, England. The principal of this bond is payable only after the principal and interest of all the general mortgage four per cent. bonds of the Atchison, Topeka and Santa Fe Railroad Company, dated July first, 1889, shall have been previously paid in full. Interest upon the principal sum of this income bond, if any is earned in any year ending June thirtieth, shall be paid upon the first day of September following, at a rate not to exceed five per centum per annum, from and out of the surplus net earnings only of the mortgaged property, provided that in the judgment of the board of directors of the Atchison Company such surplus net earnings shall be sufficient in amount to justify payment of interest on this income bond, and such payment shall be by said board of directors authorized to be so made. Such interest shall not be cumulative, and each successive holder of this income bond accepts the same subject to the agreement that the board of directors of the Atchison Company shall in their absolute discretion determine what are the surplus net earnings, if any, in any year ending June thirtieth, and applicable to such payment of interest, by deducting from the amount of the gross earnings during said year all operating expenses of every kind, and all fixed charges, including rentals of leased lines and other property, interest of all kinds, and taxes of all companies whose stocks are directly or indirectly pledged or mortgaged hereunder, and after providing for and deducting the amount of the interest upon and the sinking fund requirements of all bonds or obligations of the Atchison Company, including the above described general mortgage bonds, and of all bonds or obligations of other companies, the payment of the principal or interest of which has been guaranteed or assumed in whole or in part by the said Atchison Company, and after providing for and deducting the cost of the maintenance, renewals, repairs and improvements of the railroad, telegraph equipment, and appurtenances of the Atchison Company, and of the railroads which at the date hereof or during the life of said income bonds may form a part of the railroad system of the Atchison Company. The Atchison Company may at any time at its pleasure redeem this bond at its face or par value by giving notice of said proposed redemption six months prior to the first day of September in any year by publication once a week for three successive weeks in any newspaper of general circulation published in each of the cities of Boston, New York and London; and interest upon this bond, when so called for redemption, shall cease on and after the first day of September following such publication. All the provisions of the said general mortgage are hereby expressly declared to be part of this bond and of every coupon hereto attached. No recourse shall be had for the payment of the principal or interest of this bond to any stockholder, officer or director of said Atchison Company, either directly or through the said Atchison Company, by virtue of any statute or by the enforcement of any assessment or otherwise. All payments upon this bond of both principal and interest are to be made without deduction for any tax or taxes which said railroad company may be required to pay or to retain therefrom by any present or future laws of the United States of America, or any of the states and territories thereof, said railroad company hereby covenanting and agreeing to pay any and all such tax or taxes. This bond is one of a series of income bonds, coupon and registered, of like tenor and date, the payment of which is secured by a general mortgage or deed of trust, duly executed and delivered by the Atchison, Topeka and Santa Fe Railroad Company, the obligor, to the Union Trust Company of New York, Trustee, bearing date October fifteenth, 1889. This bond shall pass by delivery, or if registered, by transfer upon the transfer books of the company. After registration of ownership, certified hereon by the transfer agent of the company, the coupons shall remain negotiable; but no transfer of this bond, except on the books of the company, shall be valid unless the last transfer is to bearer, which shall restore transferability by delivery, and it shall continue subject to successive registrations and transfers to bearer as aforesaid at the option of each holder; or the holder may, at any time, at his option, surrender this bond and the annexed coupons to the company to be cancelled, and receive in exchange therefor a registered bond of the same issue, and thereafter it shall not be transferable to bearer, but the interest shall be paid to the registered holder. This bond shall be valid only when authenticated by the certificate hereon of the said trustee, or its successors in said trust, that it is one of the income bonds issued under and described in the said indenture of trust or general mortgage.

In witness whereof, the said Atchison Company has caused its corporate seal to be hereto affixed and these presents to be signed by its comptroller or a deputy comptroller, and attested by an assistant treasurer, on this first day of July, 1889.

ATCHISON, TOPEKA AND SANTA FE RAILROAD COMPANY,
By .... *Comptroller.*
Attest, ... *Assistant Treasurer.*

[On the back.]

No............ Atchison, Topeka and Santa Fe Railroad Company $500 five per cent. income gold bond. Principal payable July 1, 1989. Interest non-cumulative, payable on the first day of September in each year from the net earnings applicable thereto. Principal and interest payable at the agencies of the company in the cities of Boston or New York, or at the office of Baring Brothers & Co-, London, England.

TRUSTEE'S CERTIFICATE.—The Union Trust Company of New York hereby certifies that this bond is one of the series of income bonds issued under and described in the within named indenture of trust or general mortgage to this company as trustee, dated October 15, 1889.

UNION TRUST COMPANY OF NEW YORK, Trustee.
By ...., President.

Notice!—No writing on this bond except by an officer of the company.

DATE OF REGISTRY.	IN WHOSE NAME REGISTERED.	TRANSFER AGENT.
....	....	....
....	....	....
....	....	....

[On the end, one hundred coupons, numbered on the back, and dated each first of September, from 1890 to 1989, the face of the first one reading:]

Coupon No. 1—On the first day of September, 1890, the Atchison, Topeka and Santa Fe Railroad Company will pay to bearer in gold coin of the United States of America, or its equivalent, at its agencies in the cities of Boston or New York, or at the office of Messrs. Baring Brothers and Company, London, England, such portion of its surplus net earnings, if any, not exceeding twenty-five dollars, as shall in accordance with the indenture securing the same be then applicable to the payment of interest on its income bond. If there be no surplus net earnings applicable thereto, this coupon will then become void.—No...... GEORGE L. GOODWIN, *Assistant Treasurer.*

Form 22. Receivers' Certificate of Indebtedness.

[Under date of June 19, 1884, the following order was issued by the Supreme Court of New York: "It is ordered that Horace Russell and Theodore Houston, as receivers heretofore appointed in this action, be and they hereby are authorized, from time to time, to issue and sell, at a price not less than par, certificates not exceeding in the aggregate five million dollars, made by them in the following form, the blanks being filled:

[Here follows the form given below.] It is further ordered, that said receivers be and they hereby are authorized to immediately issue and sell such certificates in such amounts, not exceeding in the aggregate three million dollars, as may seem to them advisable.

And it is further ordered, that said receivers be and they hereby are authorized to use the proceeds of said certificates in their discretion to pay their necessary and current expenses in the performance of the duties of their trust, and sums now due to companies operating connecting lines of railroad upon contracts for the interchange of freight or passenger business, and moneys due for right of way and depot or other grounds necessary for the proper management and operation of said railroad, and moneys due or to become due upon the rolling stock and equipment of said railroad which must necessarily be paid to retain the possession, use and ownership thereof, and all moneys due and owing by the defendant railway company for labor and services rendered in operating said railroad since the first day of March, 1884, and money due for supplies purchased and used by said defendant in carrying on its business, and for rentals, and for terminal, ferry and depot expenses subsequent to that date, whether the same be represented by notes, made by said defendant, or not, and all taxes lawfully imposed upon the property of said defendant, and the proper expenses of said defendant in maintaining its organization and corporate existence. Said receivers, however, are not to pay out for right of way, or depot or other grounds, any sum exceeding in the aggregate the sum of two hundred thousand dollars, nor any sum for rolling stock or other equipment exceeding in the aggregate the sum of four hundred thousand dollars, without the further order of this court.

And it is further ordered, that said receivers be and they are hereby authorized to execute and deliver all necessary lease-warrants in the forms and at the times required by the existing contracts for the purchase of rolling stock and equipment made by said defendant railway company.

And it is further ordered, that the certificates issued pursuant to this order by said receivers shall, until full payment therefor, with interest, be a lien and charge on all the property covered by said mortgage prior to the lien of said mortgage, and that in the final order herein, before the discharge of said receivers, if any of said certificates have not previously been paid by said receivers, provision shall be made for their payment." June 27, 1884, the court made a further order, including the following: "And the said receivers be and they hereby are authorized and directed, until the further order of the court to the contrary, to keep and perform on the part of the said railway company all covenants and agreements in said contracts to be kept and performed by said railway company, exactly the same as said railway company ought to keep and perform the same according to the terms of said contracts if said receivers had not been appointed."]

No............ $............

NEW YORK, WEST SHORE AND BUFFALO RAILWAY COMPANY.

Receivers' Certificate of Indebtedness.

"This is to certify, that the bearer hereof is entitled to receive from Horace Russell and Theodore Houston, and their successors, as receivers of the property of the New York, West Shore and Buffalo Railway Company, covered by the first mortgage to the United States Trust Company of New York, as Trustee, but not personally, the sum of .... dollars, upon the production hereof, and indorsement hereon of such payments, on or before the first day of July, 1887, at the office of said receivers in the city of New York, and interest thereon from the date hereof, at the rate of six per centum per annum, payable on the first days of each January and July, unless said sum and interest thereon, as aforesaid, be sooner paid by the receivers out of the moneys coming into their hands, from time to time, applicable thereto, or the moneys realized by them upon the sale of the mortgaged property in their hands. This certificate is one of a series of certificates, amounting in the aggregate to a sum not to exceed five million dollars, and issued or to be issued under the authority and by virtue of the order of the supreme court of the state of New York, and under the authority and by virtue of the order of the Circuit Court of the United States for the district of New Jersey, in equity, and for the purposes and objects therein mentioned, said orders being made on the .... days of June, 1884, respectively in actions in said courts, wherein United States Trust Company of New York is plaintiff and complainant, and said railway company is defendant. Said certificates to the amount secured thereby are hereby declared to be a debt of the receivers incurred for the benefit and protection of the mortgaged property in their hands, and until full payment thereof, to be a lien and charge thereon prior to the first mortgage and the interest thereon. This certificate is not valid until countersigned by Franklin E. Worcester, treasurer of the receivers.

"In witness whereof, we, as receivers aforesaid, but not personally, have signed this certificate this ...... day of ......, one thousaid eight hundred and eighty-

"..................

"..................

"Receivers of the property covered by the first mortgage of the New York, West Shore and Buffalo Railway Company."

Form 23. Voting Trust Agreement.

Whereas, the undersigned stockholders of the .... Company deem it to their interest that all the stock held by them jointly shall be voted as a unit upon all questions affecting the business and management of the said company, and,

Whereas, ... (naming the trustees) have consented to hold and vote such stock on behalf of the stockholders,

It is Hereby Agreed by and between the above named and undersigned stockholders (hereinafter called "the stockholders") and the above named trustees (hereinafter called "the trustees") that for a valuable consideration the receipt whereof is hereby acknowledged and in further consideration of the mutual covenants and agreements expressed in this instrument:

The stockholders hereby assign, convey and transfer unto the trustees the number of shares of stock of the .... Company, a corporation of the state of .... set opposite their respective names, to be held in trust by the said trustees for the respective stockholders, by whom it is severally assigned, their personal representatives and assigns, upon the following terms and conditions.

I.

The said trustees shall hold, control and vote said stock jointly as if they were collectively the joint owners of all of said stock.

II.

They shall determine by the vote of the majority of the trustees then in office how said stock shall be voted upon any question at any time and every meeting of the stockholders.

III.

All of said stock so held by the trustees shall be voted as a unit as decided by such majority vote of the trustees.

IV.

Any vacancy in the office of trustee as herein provided for, caused by death, resignation or other cause, shall be filled by election by the remaining trustees. And the person so elected shall perform all the duties and exercise all the powers of a trustee as herein provided for.

V.

Said trustees shall prepare and issue to the stockholders certificates showing the amount of stock held on behalf of each stockholder respectively. And the stock so held may be divided and transferred in like manner as if it had not been assigned in trust, subject to the rights and powers of the trustees under this assignment. But no such assignment or transfer of stock shall be effective for any purpose until after surrender of the certificate issued by said trustees and the issue of a new certificate to the purchaser or assignee thereof. The trustees may appoint a transfer agent for the certificates issued by them and prescribe the fees which shall be paid by any holder or owner thereof for the transfer of his certificate.

VI.

Said trustees shall collect and receive all dividends on the stock transferred to and held by them and shall immediately pay over the same to the holders of trust certificates representing such stock as their respective interests appear. The trustees shall not demand or receive any compensation for receiving and paying over such dividends.

VII.

The rights, duties and powers hereby conferred upon said trustees shall expire and wholly cease on the ...... day of ......, 190.., and the trustees shall at said time assign and transfer to the persons who then hold trustees' certificates evidencing their ownership of shares of stock, the amount of stock to which each holder thereof is shown by his trustee's certificate to be entitled.

VIII.

Said trustees hereby accept the trust created by the above and foregoing instrument, and hereby undertake to hold, own and vote said stock as therein provided, and to re-transfer the same on the ...... day of ......, to the holders of trustee's certificates, evidencing their right to receive the same. They further undertake at all times to vote the said stock and exercise their powers as trustees in such manner as they shall deem to be for the best interests of the stockholders of the .... Company. They further undertake to accept additional assignments of stock from any and all stockholders of the .... Company and to permit any stockholder thereof to become a subscriber to this agreement.

In witness whereof the subscribing stockholders and trustees respectively have hereunto set their hands and seals this ...... day of ......, 190.., and the stockholders have set opposite their names respectively the number of shares of stock which they so assign and transfer to the trustees.

NAMES OF TRUSTEES.	NAMES OF STOCKHOLDERS.	NUMBER OF SHARES.
....	....	....
....	....	....
....	....	....

Form 24. Notice of Stockholders' Annual Meeting.

Office of the ...... Company, No. .... street,
Chicago, Ill., December 31, 1905.

Dear Sir—Notice is hereby given that the annual meeting of the stockholders of the ...... Company will be held at the office of the company, No. .... street, Chicago, Ill., at 12 o'clock m. on Tuesday, January 12, 1905, for the election of directors and the transaction of such other business as may come before the meeting.

The stock transfer books of the company will be closed at 5 p. m. on January 2, 1905, and remain closed until the end of said meeting of stockholders.

John Johnson, Secretary.

Form 25. Notice of Stockholders' Special Meeting.

Office of the ...... Company, No. .... street,
Chicago, Ill., September 1, 1905.

Notice is hereby given that pursuant to the call of the president a special meeting of the stockholders of the ...... Company will be held in the office of the company, No. .... street, Chicago, Ill., at 2 o'clock p. m. on Tuesday, September 12, 1905, for the purpose of considering and acting on a proposed resolution authorizing the issue of bonds by the company to the amount of $50,000 and the execution of a mortgage on the company's property securing them, a copy of which resolution reads as follows: (Here recite the resolution.)

Also for the transaction of any and all business pertaining to, or necessary in connection with the issue of such bonds and execution of such mortgage.

By order of the president.

John Johnson, Secretary.

Cincinnati, Ohio, September 5, 1905.

John Johnson, Secretary of the ...... Company:

Dear Sir—As president of the ...... Company I hereby call a special meeting of its stockholders, to be held on the 15th day of September, 1905, at 12 o'clock m., in the office of the company, No. .... street, Cincinnati, Ohio, for the purpose of considering and acting on a resolution authorizing the issue of $50,000 worth of company bonds, and the execution of a mortgage on the company property to secure them, a copy of which resolution reads as follows: (Here copy the resolution.)

Also for the transaction of any and all business pertaining to the execution of the authority conferred by said resolution.

You will please send the necessary notices to stockholders, calling such a meeting at said time and place.

Robert F. George, President.

Form 26. Stockholders' Meeting—Waiver of Notice.

The undersigned, being all the stockholders of the ...... Company, owning respectively the number of shares of stock set opposite our respective names, and being now present at the company's office, do hereby consent to the holding of a meeting of the stockholders of said company on this 5th day of September, 1905, at 3 p. m., in the office of the said company, No. .... street, New York, for the purpose of considering and adopting a resolution authorizing the change of the name of said company to the ...... Company, and the transaction of any and all business incident thereto. And we severally waive notice of such meeting, and consent to the consideration and transaction of such business.

Witness our hands this 5th day of September, 1905.

NAMES.	NUMBER OF SHARES OWNED.
John Jones	25 shares
William Marks	75 shares
Thomas Smith	100 shares

Form 27. Simple Proxy.

I, the undersigned, do hereby appoint and constitute .... my true and lawful attorney in fact to represent me at any and all meetings of the stockholders of the ...... company [held on or before December 31, 1905]* hereby granting him full power and authority to act for me at such meetings, and in my name and stead to vote the stock in said company belonging to me and standing in my name on the company's books, with like authority and effect as I might do if personally present at any such meeting.

Witness my hand and seal this ...... day of ...... 1905.

In presence of .... Signed .... (Seal.)

Form 28. Proxy for a Particular Meeting.

I, the undersigned, do hereby appoint and constitute .... my true and lawful attorney in fact to represent me, and to act in my place and stead at the annual (or special) meeting of the stockholders of the ...... Company, to be held in the office of said company on the ...... day of ......, 1905, pursuant to a notice heretofore given by the secretary of said company, and at any adjournments thereof, and in my name and on my behalf to vote any and all stock in said company belonging to me and standing in my name on its books, as fully and with like effect as I might do if personally present at such meeting.

Witness my hand and seal this ...... day of ......, 1905.

In presence of .... Signed .... (Seal.)

Form 29. Proxy for Specific Action.

I, the undersigned, do hereby appoint and constitute .... my true and lawful attorney in fact to attend on my behalf and to represent me at a special meeting of the stockholders of the ...... Company, to be held in the office of said company on the ...... day of ......, 1905, pursuant to a notice heretofore given by the secretary of said company, and in my name, place and stead to cast at said meeting any and all votes which I should be entitled to cast as an owner of stock in said company if personally present thereat, in favor of the adoption of a certain resolution for issuing $5,000,000 of corporation bonds and mortgaging the company property to secure the same, which resolution said special meeting has been called to consider. And I hereby ratify and confirm any and all votes cast by my said proxy in favor of the adoption of said resolution.

---

* By omitting the words in brackets the proxy will become unlimited as to time, so as to continue in force until revoked.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this ...... day of ......, 1905.

In presence of .... Signed ....(Seal.)

Form 30. Oath of Inspectors of Election.

The statute of New York prescribes a form of oath for inspectors at a corporation election which will answer in other states, though more specific than is necessary in some jurisdictions. It is as follows:

STATE OF NEW YORK, COUNTY OF NEW YORK, ss:

We, the undersigned, duly appointed to act as inspectors of election at the annual meeting of stockholders of the ...... Company to be held in the office of the company, No. .... street, in the city of New York, on the ...... day of ......, 19.., being severally sworn, depose and say, and each for himself deposes and says, that he will faithfully execute the duties of inspector of election at such meeting with strict impartiality and according to the best of his ability.

JOHN SMITH,
JAMES JOHNSON.

Subscribed and severally sworn to before me this ...... day of ......, 19..
MARTIN SNOW,
(Notarial Seal.) Notary Public.

Form 31. Inspectors' Certificate of Election.

The undersigned inspectors of election, duly appointed and qualified, do hereby certify that at the regular annual meeting of stockholders of the ...... Company, held at the office of said company, No. .... street, New York, on the ...... day of ......, 19.., a quorum being present, we, after being first duly sworn by oath hereto annexed, did conduct the election for directors of said corporation, and that the vote taken thereat resulted in the election, by the plurality set opposite their respective names, of the following directors to serve for the ensuing year.

NAMES.	VOTES RECEIVED.
JOHN JOHNSON	125
GEORGE WILLIAMS	108
CHARLES WILSON	117

Witness our hands this ...... day of ......, 19...

WILLIAM SPRUCE,
JOHN JACOBS.

STATE OF NEW YORK, COUNTY OF NEW YORK, ss:

Before me, a notary public, on this ...... day of ......, 19.., personally appeared William Spruce and John Jacobs, to me well known to be persons described in and who executed the foregoing certificate, and severally acknowledged that they executed the same for the uses and purposes therein set forth.

MARTIN MARKS,
(Notarial Seal.) Notary Public for County of New York.

Form 32. Notice of Election as Director.

Office of the ...... Company, No. .... street.
INDIANAPOLIS, IND., October 1, 1905.

MR. JAMES M. BURKE, Chicago, Ill.:

DEAR SIR—I take pleasure in notifying you that the board of directors of the ...... Company, at a special meeting held on September 30, 1905, elected you to membership in said board to fill the vacancy caused by the death of Mr. Williams. Please signify your acceptance of the office at your early convenience, and attend the next regular meeting of the board on October 6, 1905, at 3 P. M., in the office of the company. Respectfully,

JOHN JOHNSON, Secretary.

Form 33. Notice of Regular Meeting of Directors.

Office of the ...... Company, No. .... street.
NEW YORK.

Notice is hereby given that the regular monthly meeting of the board of directors of the ...... Company will be held at the office of the company, No .... street, New York, at 2 P. M., August 4, 1905.

Dated July 25, 1905.

JOHN JOHNSON, Secretary.

Form 34. Notice of Special Meeting of Directors.

Office of the ...... Company, No. .... street.
ST. LOUIS, MO., August 28, 1905.

Notice is hereby given that, pursuant to the call of the president, there will be a special meeting of the board of directors of the ......

Company at 2 P. M., on September 7, 1905, in the office of the company, No. .... street, St. Louis, Mo., for the purpose of electing a secretary to succeed James Burton, recently deceased, and for the transaction of business pertaining to such election, the entering into a contract with the person so elected and fixing his salary.

By order of the president.

JOHN JOHNSON, Secretary.

Form 35. Directors' Meeting—Waiver of Notice.

The undersigned, being all of the directors of the ...... Company, and being all present, do hereby consent to an immediate meeting of the board of directors of said company, at 2 P. M., on this 10th day of September, 1905, in the office of John Jones, No. .... street, Cincinnati, Ohio, for the transaction of any and all business pertaining to the affairs of the company which may come before such meeting, and we hereby waive notice of such meeting.

Witness our hands this 10th day of September, 1905.

[Signed by all the directors.]

Form 36. Notice of Dividend.

Notice is hereby given that pursuant to a resolution of the board of directors of the ...... Company, adopted July 16, 1905, a semi-annual dividend of three per cent. for the six months ending June 30, 1905, will be paid on July 30, 1905, to the holders of common (or preferred) stock of record at the close of business on July 20, 1905. The stock transfer books will be closed July 20, 1905, at 5 P. M., and remain closed until July 30, 1905, at 10 A. M.

Philadelphia, July 16, 1905.

JOHN JOHNSON, Secretary.

Form 37. Procedure for Issuing Bonds.

Whereas, The action therein provided for is necessary to preserve and advance the best interests of this corporation, and

Whereas, This meeting has been regularly called after due notice for the purpose of considering and adopting or rejecting the following resolutions; be it

Resolved, That a meeting of all the stockholders of the Maine and Washington Railway Company be and the same is hereby called to be held at the main office and principal place of business of said company in room ...... in ...... building, No. .... street, in the city of .... on the ...... day of November, 1905, at 11 o'clock A. M., for the purpose of considering and acting upon a proposition to issue mortgage bonds of said company to the amount of fifteen million dollars ($15,000,000), payable in gold coin of the United States, for the purpose of paying off and taking up the outstanding bonded indebtedness of said company to the amount of eight million dollars ($8,000,000), paying existing floating indebtedness of said company to the amount of two million dollars ($2,000,000) and providing a fund of five million dollars for use in making improvements, extensions and betterments of and upon the property of said railroad company, and thereby to increase its bonded indebtedness up to the aggregate amount of fifteen million dollars ($15,000,000) in gold coin of the United States, and to secure the payment of said bonds by mortgage upon the railroads, rights of way and certain properties belonging to said company as particularly described in a mortgage heretofore prepared for submission to and consideration by said meeting of stockholders.

Resolved, That the secretary of this company shall cause to be published in the ......, a newspaper of general circulation published in the city of .... [where the meeting is to be held] at least once each week for eight weeks, beginning on the ...... day of ......, instant, a notice to the stockholders of said Maine and Washington Railway Company, stating the time, place and object of holding said meeting, which notice shall be in substantially the following form:

Notice is hereby given that, pursuant to a resolution of the board of directors of the Maine and Washington Railway Company unanimously adopted at a full meeting of the said board, duly called for that purpose and held at the principal office of the company on the ...... day of ......, 19.., a special meeting of all the stockholders of the said Maine and Washington Railway Company will be held at the principal office of said company in room ...... in ...... building at No. .... street in the city of ...., state of ...., on the ...... day of November, 1905, at 11 o'clock A. M., for the purpose of considering and acting upon a proposition to issue mortgage bonds of said company to the amount of fifteen million dollars ($15,000,000), for the purpose of taking up outstanding bonds of said company, paying its floating debts, and providing a fund to pay for extensions and betterments of the railroad properties of said company, thereby increasing the bonded indebtedness of said company to the aggregate amount of fifteen million dollars ($15,000,000) and to secure such bonds to be so issued by a mortgage upon the railroads, rights of way and certain properties belonging to said company as described in a mortgage to be submitted to said meeting for its action thereon. By order of the board of directors this ...... day of ......, 19..

(Corporate Seal.) R. M. JONES,

Secretary of the Maine & Washington Railroad Company.

Resolved, That the secretary of this company shall cause a sufficient number of like notices to be prepared in the form of letters or circulars, and shall send by mail, properly stamped and addressed, at least thirty days before the date fixed for said meeting, one such notice to each stockholder whose name appears as such on the company's books, such notice to be addressed to the stockholder at his place of residence, if shown by the books of the company or otherwise known, and if his residence be not known, addressed to him at the principal place of business of the company.

Form 38. Indemnity Bond for Reissue of Lost Stock Certificate.

The undersigned, George Burton and the Fidelity Surety Company, hereby acknowledge ourselves as held and firmly bound unto the Motive Power Company of New York in the sum of ten thousand dollars ($10,000), for the payment of which to the said corporation, its successors and assigns, we jointly and severally bind ourselves, our heirs, executors, administrators and successors.

Signed and sealed by us this ...... day of ......, 19... The condition of the above obligation is as follows:

Whereas, The said George Burton is recorded on the transfer books of said Motive Power Company of New York as the owner of fifty (50) shares of the capital stock of the said company, and

Whereas, His original certificate of stock No. 3, issued by said company, evidencing his ownership of said fifty shares of stock has been lost, stolen or destroyed, as he has complained to said company, and

Whereas, Upon application of the said George Burton and pursuant to a resolution of the board of directors of the said Motive Power Company of New York granting the same, a new certificate for the said fifty shares has been this day issued to said George Burton and numbered 57;

Now, Therefore, If the said George Burton, his heirs, executors and administrators shall now, and at all times hereafter, save, defend, keep harmless and indemnify the said Motive Power Company of New York, its legal representatives, successors and assigns from, against and on account of all demands, claims or causes of action arising out of, upon, or connected with said certificate No. 3, for said fifty shares of stock in said company, or any actual or pretended purchase or assignment thereof, and from all costs, expenses and damages that shall or may arise therefrom, and shall also surrender and deliver up to said company for cancellation the said certificate No. 3, whenever and so soon as it may be found, then this obligation shall be void. Otherwise in full force and effect.

George Burton,
The Fidelity Surety Company.
By M. A. Allen, General Agent.

Signed, sealed and delivered in presence of Arthur R. Morgan, Joseph Harper.

Form 39. Resolution of Consolidation.

Whereas, It is the sense of this board that the consolidation of the A. Company, the B. Company and the C. Company to form a single corporation, and the consolidation and amalgamation of their respective capital stocks, properties and franchises will be mutually advantageous, and

Whereas, The holders of more than three-fourths in value of all the capital stock of each of said companies have consented in writing to a consolidation of the said A. Company, B. Company and C. Company upon the terms following, to wit:

First. That said consolidation shall take place at once, and the consolidated corporation shall continue in existence for fifty years.

Second. That the consolidated corporation shall bear the name of the A. Company.

Third. That the consolidated corporation shall take over and become the owner of all the lands, properties, franchises and assets of every description belonging to each of said constituent companies; shall assume, become liable for, pay and discharge, all valid debts, liabilities and obligations of every kind, character and description, heretofore incurred or entered into by either and all of said constituent companies; shall hold said property and franchises subject to all the valid conditions, liens and claims to which the same were and are subject in the hands of the several constituent companies; and shall assume, undertake and perform all contracts, agreements and undertakings to which any and all of said constituent companies are lawfully bound to the same extent and in like manner as such constituent company or companies are bound to keep and perform the same.

Fourth. That the objects and purposes of the consolidated company shall be made to embrace the objects and purposes of all the three constituent corporations.

Fifth. That the consolidated company shall have a board of didectors equal in number to the combined boards of the three constituent companies, and its directors for the first year shall be all the directors of all of said companies.

Sixth. That its principal place of business shall be that of the A. Company.

Seventh. That the capital stock of said consolidated company shall consist of one hundred thousand (100,000) shares of one hundred dollars ($100) each, and shall be issued to shareholders in the constituent companies (upon surrender of their shares of stock therein) in the proportion that such shares held by them respectively shall bear to the combined capital stocks of all the said constituent companies.

Be it resolved, that the propositions and conditions above recited are hereby accepted and adopted by the board of directors of the ...... company.

Note—There is no branch of law that is more intricate than the law of corporations. Forms, at best, can only be suggestive. They must be in harmony with the purposes of the incorporators and the rights granted by law. It would be possible to make a large volume of forms for procedure in the organization and management of private corporations without being able to furnish forms wholly applicable in any given instance. The forms given herein are merely illustrative and must be adapted through changes to the uses for which the corporation lawyer or officer intends them.

PART X.

MISCELLANEOUS.

MISCELLANEOUS.

TRUSTS AND VOTING TRUSTS.

In the strict legal sense of the word there are not now such things in existence in America as trusts, that form of combination having become illegal after the passing by congress of the federal anti-trust act, known as the Sherman law, which was approved in 1890. The trust form of combination was different from the present form of mammoth centralized corporations. "The several firms and corporations which sought to combine their interests did not merge them into one corporation, nor sell them to any one individual or set of individuals. On the contrary, the several properties, whether corporate or individual, remained in equity distinct, but they were all transferred in trust to a certain few persons as trustees to manage them in the interests of the several owners. The value of the respective properties was ascertained, and the trustees issued trustees' certificates to the owners for their respective proportionate shares in the aggregate of the property turned over to the trustees. In some cases all the stock of the corporations was transferred to the trustees; in others, only a majority of the shares; but whatever the extent of the interest, enough of it was turned over to the trustees to give them control of the several properties. There was one management, one policy and one great combination, so far as production or marketing, price making, or profit-sharing was concerned. Still the beneficial title to all these properties remained in their several owners. The different subsidiary corporations were still distinct."* This form combined a maximum of control with a minimum of financial responsibility. The consolidated corporations ("holding corporations") and the pools and other forms of unincorporated association of to-day have practically the same purposes and effect the same results, but they have a different standing in the law. In the case of holding corporations the original corporations manage their individual business affairs. But, like a private person who owns the majority of the stock of two competing corporations and elects directors who will bring about uniform management of the two plants, the holding corporation owns a majority of the stock of the constituent corporations and elects their directors, thus keeping entire control. The holding corporation usually issues its stock proportionately to those interested in the component corporations in exchange for a majority or all of the stock of those corporations. The results of this form of combination are, of course, uniform control, monopoly, and often the destruction of small competing corporations. Notwithstanding the derivation of the word "trust," its meaning has been extended to cover these other forms of combination. Mr. S. C. T. Dodd, solicitor for the Standard Oil Company, has defined "trust" in its broader sense thus: "The term 'trust' embraces every act, agreement, or combination of persons or capital believed to be done, made, or formed, with the intent, power or tendency to monopolize business, to restrain or interfere with competitive trade, or to fix, influence, or increase the prices of commodities."*

---

*The Trusts, by William Miller Collier.

The voting trust is a device, permitted by the laws of some states, the object being to maintain an agreed policy which cannot be interrupted by the sale of shares of individuals. Holders of a majority of shares enter into an agreement to transfer their shares to a trustee, who has the power to vote them, and thereby elect the directors and control the management and policy of the corporation.† The trustees issue to the shareholders, in exchange for their shares, trust certificates, which are usually made transferable the same as stock. The holders of these certificates reserve the right to draw dividends. The duties of the trustee are fixed by the trust agreement, which recites the policy to be pursued. This device is sometimes used as a protective measure by small corporations to prevent their absorption or control by a holding corporation which might buy a majority of the stock and convert the smaller corporation to its own uses.

---

*Harvard Law Series, Nov. 1893.

†See Dill, New Jersey Corporations.

Voting trusts have been upheld in decisions by courts in New York, New Jersey, Massachusetts, Alabama, Illinois and California, and they have been declared illegal in some other states. Cook on Corporations (pp. 1369–1371) gives the following conclusion, after reviewing the decisions: "* * a deposit of certificates of stock with trustees for a specified period of time, either with or without a transfer of the same to the trustees, is legal, and not in violation of the usual statute against restraints on the alienation of personal property, and is not opposed to public policy, as a restraint upon trade, and is not an implied fraud upon stockholders who are not allowed to participate, and it is not an illegal separation of the voting power from the ownership of the stock, provided, always, that no actual fraud is involved in the transaction. In other words, such a pooling of stock is not illegal in itself, but, like all contracts, may be illegal if actual fraud is involved."

CORPORATION RECEIVERSHIPS.

Receivers are appointed for corporations when necessary to protect the interests of creditors, stockholders, or the state. The appointment of a receiver is usually incidental to some other relief asked in a suit against the corporation or its officers.

The most frequent cause for appointing a receiver is insolvency of the corporation. If it makes default in payment of the principal or interest of a mortgage debt, and suit is brought to foreclose the mortgage, a receiver may be appointed to preserve the property and conduct the business until property and business can be sold for the payment of debts. The same action will be taken where there has been long delay in the payment of a judgment. And even when suit is brought for a simple debt a receiver may be appointed if it appears that there are other debts exceeding the company's ability to pay, which make a receivership necessary to prevent the seizure of the corporate property by piecemeal and the consequent destruction of a valuable business.

When the charter of a corporation is forfeited and the corporation is dissolved by order of court in *quo warranto* proceedings on behalf of the state, a receiver is appointed by the court for the three-fold purpose of restraining the corporation from using the forfeited franchise, providing for the satisfaction of corporation debts, and preserving the corporation property for the use of the stockholders, who, by the dissolution of the corporation, become tenants in common in its surplus effects. In like manner a receiver may be appointed when the charter of a corporation expires.

A stockholder of a corporation may procure the appointment of a receiver by showing that its affairs are being fraudulently mismanaged by the corporation officers, or that the business is being operated at a loss or is so heavily indebted that its property is liable to be seized and wasted by creditors or that the company has voluntarily ceased business, and that the interests of stockholders are not being properly cared for, or by showing any sufficient cause for dissolving the corporation.

Public service corporations, such as railroad companies, street railroad companies, water companies and gas companies, are sometimes placed in the hands of receivers on the application of patrons to safeguard the interests of the public, which depends on the performance of their franchise duties for transportation, water, light, heat, etc.

The appointment of a receiver is made by the court upon the application of a party having legal rights which, he shows the court, will suffer unless there is a receivership. The general rule is that the petitioner must make a *prima facie* showing that he has a cause of action for some substantial relief, as the mortgagee for the foreclosure of his mortgage, the general creditor to recover a judgment, the attorney-general for a forfeiture of the charter, the stockholder for a distribution of the company property, or a citizen for the performance of a public service. The existence of the cause of action, and also the existence of special facts which make a receivership necessary, must be established by affidavits or other evidence, depending on the local rules of practice.

Notice to the corporation through its officers is usually necessary before the court will appoint a receiver. This notice must be given for such a reasonable time as will enable the company's officers to oppose the application if they wish to do so. What is a reasonable time will depend on the facts of each case. If it is shown by affidavits that the interests of the complaining party will suffer by delay, as where the officers are charged with selling the corporation property with the intention of converting it to their own use, or carrying it away beyond the jurisdiction of the court, a temporary receiver may be appointed immediately to take charge of the corporation property and business until notice can be given and the party afforded a hearing on the question whether or not the receivership shall be made.

CORPORATE CREDIT.

Bonds are long-time paper whose value is based on a corporation's readiness and ability to pay interest and principal, as has been shown. Not all corporations issue bonds, nor do all corporations that have bond issues outstanding exhaust all their proper credit thereby. It has been stated as a principle that bonds should not be issued to an amount which will exceed the value of a corporation's property in times of adversity. The same principle extends to borrowing money on short time, or commercial paper, one reason being that it is poor financial practice to sell evidences of indebtedness at a heavy discount, which is necessary when the security is insufficient. And when there is a bond issue that does not cover an amount equal to a conservative estimate of the value of a corporation's property, commercial paper may often be issued advantageously to the limit fixed by the estimate. Short-time paper issued beyond this estimate is not completely secured, since, except when it is given in exchange for employés' services, which are constituted by statute a prior lien, it comes after the bond claims in the distribution of the assets of a corporation. To pay current expenses and to supply operating funds till the indebtedness for merchandise credit extended to patrons is satisfied by payment, business concerns must often borrow money from the banks. When interest rates are low, and for other reasons, it is often better to do this than to raise funds by selling bonds or preferred stock. But banks must be satisfied of the security of a corporation's paper before they will extend credit. A conservative bank will require trustworthy evidence of the resources of a corporation and knowledge of the character of the corporation's officers and directors. The ability of the corporation to pay its notes and its reputation for promptly meeting all its obligations will determine its ability to secure credit in case it is not borrowing on salable collateral securities. The bank must know that it can force payment in case of default, and it endeavors to learn as nearly as may be, by investigating the reputation of the corporation for promptness or slowness in settling its previous indebtedness, that it will not have to incur the expense of forcing payment. No corporation can afford a bad reputation in either of these respects. It is in danger of being forced into dissolution if it has debts it cannot pay, and if it is able but unwilling to satisfy its creditors, it will have difficulty in securing loans in the future. A corporation may measure its financial stability in a degree by its ability to fill out satisfactorily enough to obtain a loan from a conservative bank the standard form of report recommended by the American Bankers' Association. This form of report is reprinted here in full. Many of the best banks in American cities use this form, and all corporations applying for loans must be able to fill it out to the bank's satisfaction. It is well for a corporation with a likely need of borrowing money to secure a "line of credit." Having a line of credit means that the corporation may secure any needed credit at its bank up to a certain amount, which amount is determined by the report submitted. In small cities and towns the bankers' personal knowledge of their patrons and their patrons' business usually makes unnecessary such elaborate statements.

Among many banks another consideration determines the amount a company may borrow, i. e., the value of the company's business to the bank. In New York a company generally is allowed to borrow five times the amount of its average deposit, provided other conditions are right. In the west this rule is not adhered to, but the practice of western banks is tending more in that direction.

Standard Form

American Bankers' Association

To the Capital National Bank of Indianapolis:

Name (Corporate style under charter)..

Business...

Location.. Branches......................................

For the purpose of procuring credit from time to time from you for our negotiable paper or otherwise, we furnish you with the following statement, which fully and truly sets forth our financial condition on the........day of.............. 1.... ; which statement you can consider as continuing to be full and accurate unless notice of change is given you. We agree to notify you promptly of any change that materially reduces our pecuniary responsibility.

In consideration of the granting of such credit, we agree that if we at any time stop payment or become insolvent, or commit an Act of Bankruptcy, or if any of the representations made below prove to be untrue, or if we fail to notify you of any material change as before agreed, then and in either such case all our obligations held by you shall immediately become due and payable without demand or notice, and the same may be charged against the balance of any deposit account kept by us with you, we hereby giving a continuing lien upon such balance of deposit account from time to time existing to secure all our obligations held by you.

ASSETS		
Cash in........Bank......		
Cash on Hand.............		
Bills Receivable, Good...		
Accounts Receivable, Good		
Bills or Accounts Receivable, Owing by Officers		
Merchandise, Finished (How Valued ....)		
Merchandise, Unfinished (How Valued..........)		
Raw Material, (How Valued ....)		
Real Estate...............		
Machinery and Fixtures..		
Other Assets, and of what composed.		
....		
....		
....		
....		
....		
....		
....		
Total		

LIABILITIES		
Bills Payable for Merchandise		
Bills Payable to Own Banks..................		
Bills Payable for Paper Sold....................		
Open Accounts.......... .		
Bonded Debt (When Due.)		
Interest on Bonded Debt.		
Mortgages or Liens on Real Estate............		
Chattel Mortgages........		
Deposits of Money with us		
Other Indebtedness, and of what composed.		
....		
....		
....		
....		
....		
....		
Total Liabilities....		
Capital....................		
Surplus, Including Undivided Profits............		
Total		

Contingent Liability. { Accommodation Endorsements.................................
Endorsed Bills Receivable Outstanding.....................

Specify any of above assets or liabilities pledged as, or secured by, collateral, and state collateral.

....

(Over.)

CAPITAL

Authorized..............Subscribed ....Paid in.............
Held by Company as Treasury Stock.................................
How paid in: Cash $................Other Property...............
Description of other property and how valued........................
What portion of Real Estate, if any, has been acquired through bad debts?...
In whose name is title to Real Estate held............................
Incorporated in what State and under what general Law or Special Act...
Date of Charter.................Commenced Business................
Are Stockholders liable beyond amount of stock subscribed...........
If so, to what extent..
Amount of annual business.............Annual Expenses.............
Annual Dividends................
When was last Dividend declared.....................Rate..........
Insurance carried on Merchandise............Real Estate............
Is Mortgage above stated a first lien on all the assets..................
Regular times of taking inventory...................................
Give basis of statement, whether actual inventory, by whom taken and date, or if estimate, by whom made and date. { ....
What amount, if any, of Accounts and Bills Rec., not charged off, is past due, extended or renewed..
Amount charged off for bad debts last year.........................
Amount recovered during same period............................
Amount charged off account of plant preceding year.................
State last date of taking trial balance and if same proved.............
Regular times of balancing books...................................
Number of Bank Accounts and where kept ....

OFFICERS

NAME IN FULL	ADDRESS
President, ...	....
Vice-President, ...	....
Secretary, ...	....
Treasurer, ...	....

DIRECTORS

NAME IN FULL	ADDRESS
....	....
....	....
....	....
....	....

Please sign Company's Name here..........................
By..........................

Date Signed.................

LIBRARY

The foregoing statement has value to the extent that it is accurately made. Such a report made by an unintelligent and careless or dishonest bookkeeper or clerk may be very misleading. James G. Cannon recommends that the custom be established of requiring that statements of financial condition of factories be accompanied by the joint certificates of a certified public accountant and of an expert engineer. The accountant will have concerned himself with the books and records of the corporation, and the engineer will have concerned himself with the physical properties—with the value of the plant, with the plant's adaptability to its use, with the value of raw materials, and with trade conditions, etc. The banker then has the sense of security due to the distinterested and impartial nature of the reports and valuations.

MARKETING NOTES IN THE OPEN MARKET.

The amount a company can borrow from a bank depends upon several considerations—the company's credit, the value of its business to the bank (earnings on its deposits less expense of caring for its business), the legal limits to the bank's loaning power, etc. It sometimes is desirable or necessary to sell commercial paper (promissory notes) through a note broker. In former times these notes were given only for merchandise bought, but now they are given without reference to the purchase of any special merchandise, in order to discount bills. "Of late years," says the Boston Commercial Bulletin, "the practice has arisen among merchants of drawing notes payable to their own order and selling them through brokers to banks or other lenders in the open market. The practice has been encouraged in two ways: first, because sellers of nearly all kinds of staple merchandise offer large discounts for cash, and the buyer who sells his note for money and then pays the money for the merchandise gets the benefit of these discounts; and second, because a large number of note brokers are constantly going about among merchants and urging them to make such paper for sale. When a merchant secures his funds by discounting merchandise notes at one or more banks at which he keeps regular accounts, the banks thus have an accurate method of determining the amount of paper in the market bearing his signature or indorsement, and whether it is safe to accept any more of it. But the commercial paper which is sold in the open market becomes so scattered that nobody but the maker knows how much of it is in existence at any one time. Cases have occurred in which young men began business with small capital, and being encouraged to increase their operations by making single-name notes and selling them through brokers, have thus established a credit utterly disproportionate to their means [usually a very bad thing for the young man as well as for the note buyers]. The mere fact that their notes have become known in financial circles often adds to their credit and enables them to give more notes." Notes should never be marketed for any other purpose than legitimate business. For future security, borrowings should be limited to the minimum value of the company's property as the value is estimated in hard times. It is not good financiering to sell notes at a heavy discount, though the rate of interest be below the usual percentage, and this will have to be done if the business statement submitted to prospective purchasers does not show a properly limited disposal of evidences of indebtedness. It is best, where possible, to arrange the interest so that the notes will bring their face value. Merchants often sell their paper at six or seven per cent. and discount their own bills at seven to nine per cent., making two or three per cent. by borrowing. If there is any legitimate reason for secrecy in borrowing it can best be maintained by selling notes through a broker. Albert S. Bolles describes the methods of the note broker as follows (in Practical Banking, published by Levey Bros., Indianapolis): "Sometimes the broker has the notes in his possession for sale; in other cases he has simply a memorandum of them. In the latter case he has a printed form containing the name of the maker, amount, when and where payable, indorser and other particulars. A list is sent to a bank containing such a description of the notes, or the broker or his agent may visit the banks personally and exhibit such list or the paper itself. The printed list of notes that is sometimes sent to banks may contain a description of a hundred pieces of paper, and is marked, 'This is for bankers' use only.' Each piece is numbered. If a bank wishes to see any of the pieces therein described, on application they are sent to the bank by the broker. If a note broker is selling all the paper given by a certain merchant, the broker will be careful in offering it for sale. If the banker has $20,000 of the paper, and the broker knows he cannot increase the amount, he will be careful not to offer any more. He will also be careful not to put such paper on a printed list through fear the banker may conclude the merchant is issuing more paper than he ought to issue, if the merchant's name appears frequently on printed lists. Note brokers, or their agents, often visit banks several times daily." A first-class note broker will not fear to offer holdings either on printed lists or personally, since he has assured himself, through the issuing company's sworn statements, that the company is not issuing more paper than it can care for. Purchasers of commercial paper will usually do better to buy through a reliable broker than direct, as many losses have been caused by companies who sent their paper direct to banks with the privilege of purchase or return. The Altman & Co. (Akron, Ohio) paper is an example in point.

"Brokers do not always get possession of notes until they have paid for them. Several practices exist in this regard. One practice is for the merchant to make notes and then deliver them to a note broker for sale. The latter may give a receipt or acknowledgment, or not. In such a case the merchant has entire confidence in the broker, otherwise he would not give him notes without adequate security. * * * Another way is for merchants to leave their paper with a note broker and get immediately from him a certain amount thereon. A merchant, for example, may leave $25,000 of paper and ask for $10,000, expecting the balance when the paper is sold. The note broker pays him this advance on account and, after selling the paper and deducting his commission, sends the balance. Another way is for the note broker to buy the paper, paying therefor at the time of the purchase. A note broker will go to a merchant and will say he will take so much of the merchant's paper at such a rate of interest. If the rate be acceptable, the merchant will sell paper and get the money. In these cases the broker expects to sell the paper so as to net the purchaser a lower rate of interest and thus make more than he would if charging the ordinary commission. Many brokers do wholly a business of this kind—buying paper and selling it at the best rate they can obtain for it. In negotiating paper note brokers sometimes indorse it, but bankers and others buy it because the maker is supposed to be good, and not because the broker indorses it."

The note broker's profit on paper sold through him is usually one-eighth or one-fourth of one per cent.

THE CORPORATE SEAL AND CORPORATE SIGNATURES.

It is almost universally true that a corporation has a seal, and that affixing the seal is an important part of the execution of any formal instrument by the corporation. The distinction between sealed and unsealed instruments having been abolished, in whole or in part, in many jurisdictions, and the law permitting officers and agents of a corporation to bind it by parol contracts and unsealed writings for many purposes, the seal is not so highly esteemed as formerly. But it is still used on formal instruments, such as deeds and mortgages, bonds, stock certificates, etc. And when the secretary gives a formal official certificate, as in certifying to a transcript of the by-laws or minutes, the seal should be affixed with his signature. The seal is usually so mounted as to impress upon paper in raised characters the words and device adopted by the corporation, and prescribed in its by-laws. It is not necessary to use wax or wafers in affixing the seal, though they are often used. The secretary is custodian of the seal by virtue of his office, subject to regulations and restrictions contained in the by-laws. He is held responsible for any misuse of the seal by permitting it to be affixed to instruments the execution of which has not been authorized by the corporation.

Letters and informal documents relating to the corporation business are usually signed with the name of an officer of the corporation followed by his official title, thus, "John Johnson, President," or "George Williams, Secretary Fidelity Trust Co." But when formal contracts are executed the name of the corporation itself should be subscribed and its seal affixed, followed by the signatures of the officers who acted for the corporation in executing the contract. The ordinary form of signature used in such cases is as follows:

(Corporation Seal.) THE FIDELITY SECURITY COMPANY,
By JOHN JOHNSON, President.
Attest, GEORGE WILLIAMS, Secretary.

The corporation will be bound by the signatures of its officers, when they sign on its behalf within the scope of their authority, whether the name of the corporation is made a part of the signature or not. But for the protection of the officers themselves a form of signature using the name of the company and stating that it is affixed by the subscribing officers should be adopted whenever the contract includes a promise to pay money or to do any other act which the officers are capable of performing as individuals. For it is held that where an officer signs his own name to a note or contract which purports to be made by the person signing it, followed by the word "president," or other words indicating his official position in a corporation, he binds himself as an individual, and cannot escape liability on the ground that the contract was entered into by and on behalf of his corporation.

THE CORPORATION LAWYER.

The evolution in the methods of modern business organization has brought about a new and extensive department of specialized law practice. The corporation lawyer attends to the legal side of organizing a corporation, advising as to capitalization, the state in which to incorporate, and all the matters of primary consideration that have so much to do with the success of the corporation later. He is also the corporation counsel when the corporation is organized and operating. He is an important adjunct to the large commercial and financial houses of the country, and is frequently a partner or stockholder, and is usually active in directing the larger transactions of companies in which he is interested. To the large and intricate business organizations he is almost a *sine qua non.* Take, as an instance of a modern business organization, the United States Steel Corporation, with its eleven hundred millions of capital. "The net earnings of the United States Steel Corporation for 1902 were over $133,000,000—more than the total sum raised by taxation in New York and Ohio together, in 1898, and twice the amount raised in Pennsylvania the same year. The gross income of the same corporation for 1902, $565,000,000, was more than the total ordinary receipts of the national government for any year prior to 1899. Its stock and bonds are more than the total capital engaged in manufacture in any state of the Union, except New York and Pennsylvania." (Need of a National Incorporation Law, Horace L. Wilgus.) Mr. John Brisben Walker points out that this company represents what not many years ago was several thousand separate businesses. The supplying of steel, coal, coke, oil, lime-stone, transportation, and so on, was divided among an endless number of small firms. There was lack of system in making contracts, there were failures to deliver, there were misunderstandings, and unwise and incomplete methods of doing business, both from commercial and legal standpoints. There were many disputes, and differences of opinion were settled by the savage arguments of lawyers, who submitted their cases to the arbitrament of the courts. The bitter hatreds and the long and expensive legal fights marred the welfare and happiness of every commercial community. The several thousand businesses brought under the management of such a company as the United States Steel has brought about harmonious transactions, because one board of directors superintends the business of the company, and in place of several thousand lawyers connected fortuitously with a number of small business interests, each lawyer finding profitable employment where there was a dispute and a quarrel, there are now a few able counselors employed for the purpose of preventing legal complications and insuring harmony instead of discord. Such lawyers are frequently retained on a salary, being paid so much per year simply to attend to the business that is referred to them. Not only do the trusts employ corporation lawyers in this way, but large business interests in nearly every metropolis have corporation counsel to whom they refer legal matters for advise or adjustment. No class of lawyers is more highly regarded, or finds more profitable and constructive employment than those who assist in the organization of corporations and have part in their conduct after organization. The best corporation lawyers are familiar with the technicalities and practices of finance, brokerage, banking and industrial commerce, as well as with the laws bearing on the transactions of these occupations and of corporations in general. They familiarize themselves with the details of their clients' business and keep in touch with the officers of the companies they represent and with all the important affairs of the companies. They familiarize themselves with questions of science which enter into the evolution of business, and, in general, instead of being a clog upon the industry of others, they themselves are leaders in the direction of higher economic development. Being less technical in training than the officers and directors of the companies, and being further removed from the personal elements that may enter into differences of opinion among officers and managers, the lawyers are better able to take a bird's-eye view of the affairs of the companies and are the more capable of advising efficiently. The function of the corporation lawyer is characteristically a constructive one; it is a part of the upbuilding of great commercial enterprises. It is the branch to which such men as Charles E. Butler, William M. Evarts, and such other leading legal lights as Choate, Reed, Root, Tracey, Knox, Cromwell, Dill, Parsons and John R. Dos Passos have given much of their best attention. In selecting a corporation counsel a large concern will do well to choose a lawyer who makes a specialty of corporation practice.

CORPORATION BOND AND STOCK INVESTMENTS.

The investor, either in bonds or stocks, will find much in the foregoing pages to enlighten him in buying judiciously. In the part on accounting, Mr. Greene's analysis of a statement will be of assistance in estimating the value of a stock by applying a similar method to the statement of the concern whose stock the investor is investigating. Frequently concerns that are hard up will try to save themselves by issuing additional stock—common or preferred—and the statement of a "going concern" which is thus issuing stock should be carefully examined. The wording of a preferred stock or bond contract should be carefully read, as the name of a bond or stock is sometimes misleading. A satisfactory statement and a contract that secures the purchaser without question as to his rights are necessary to safety of principal and interest or dividends. One cannot buy a stock or bond having a contract on it and claim that he was misled as to the character of it. Whether he reads or does not read the contract he is estopped from complaining. It is usually well to read the articles of association and sometimes the by-laws of the corporation. In buying the securities of a public utility or franchise corporation the franchise should be examined with reference to its length in years, its scope, the terms or conditions of its renewal, and its limitations, if it has any. The Art of Investing says: "We must also bear in mind and carefully weigh the character of the community which grants the franchise, and not overlook the possible effect of a change in public sentiment. While a city or other municipality cannot, as a rule, cancel a franchise which has been legally granted, and with the terms of which the company has complied, yet there are methods whereby the community can, if it so elect, take to itself, through taxation, what is generally termed the 'unearned increment' in the franchise. For instance, a city may, by legislation, limit the rate of fare which the company may be allowed to charge; it may insist upon a transfer system which will tend to reduce the income of a road; it may adopt a franchise law requiring the company to pay into the city's treasury a certain proportion of its earnings in addition to the amount paid for ordinary taxes. This feature of the franchise question is coming to the front very rapidly nowadays, and it is quite necessary for the intelligent investor to be thoroughly informed along this line." The analysis of railroad reports, for investors in railway securities, is well treated in Greene's Corporation Finance and in Woodlock's Anatomy of a Railroad Report and Ton-Mile Cost. Railway accounts and statistics are discussed also in Johnson's American Railway Transportation. The Art of Wall Street Investing (Moody) is helpful generally. Ideas as to the proper capitalization of corporations may be had in the discussions on that subject in this book, and there is useful information under the heading "Bonds." The income tables in the appendix will also be useful to the investor.

In The Art of Investing, Mr. Moody shows the necessity for personal knowledge on the part of the investor. He says: "Two common and fatal mistakes should be avoided. One is relying solely upon the advice of another. No one competent to form an opinion for himself should put his pecuniary interests unreservedly in the keeping of another. Such absolute confidence invites betrayal. By far the greater number of losses to investors have been in securities purchased exclusively on the recommendation of outside parties. While it is well to get the opinion of a reputable broker, the purchaser should investigate for himself. [It is sometimes wise to get the opinions of several brokers and weigh their opinions against one another.] The other mistake is to uniformly give preference to listed securities. * * * Many persons seem to think that stocks and bonds must have a value if they are quoted at some stock exchange, forgetting how many fancies have been ballooned until they have burst at such places. On the contrary, such a position is likely to expose them to manipulation for purely speculative purposes. Stock exchange quotations are often unsafe guides to buyers. They represent not merely the value of the property but the pitch of speculation at the time. * * * They are pretty sure to be too high or too low. * * * Securities, in the long run, must stand upon their merits, and purchasers have merely to follow business principles as taught by the canons of common sense."

Other valuable advice given by Mr. Moody is this: "Always question any proposition offering stocks or bonds for sale where such offers are made directly by the company itself, and not through a banking house or other reputable concern. If no bankers or brokers are handling the sale of securities, it is usually the case that there is something 'shady' about the scheme. There are exceptions, of course, but not many. If the securities are offered by bankers and brokers, the next step should be to ascertain the standing, reputation and financial strength of the bankers or brokers themselves. Wall street and other financial centers have their full share of irresponsible concerns of this class."

THE MAGNITUDE OF CORPORATIONS.

The "trusts" are, of course, the largest corporations. The largest of the trusts is the United States Steel Corporation, incorporated in New Jersey, February 25, 1901, by Charles C. Cluff, William J. Curtis and Charles MacVeagh, all of New Jersey, each subscribing for five shares of preferred stock and five shares of common stock, $100, par value, of the thirty shares, or $3,000, "the amount with which the company will commence business." But as fixed April 1, 1901, "the total authorized capital stock of the corporation is eleven hundred million dollars ($1,100,000,000), divided into eleven million shares of the par value of $100 each. Of such total authorized capital stock, 5,500,000 shares, amounting to $550,000,000, shall be preferred stock, and 5,500,000 shares, amounting to $550,000,000, shall be common stock." "The duration of the corporation shall be perpetual." The large capitalization is almost inconceivable. According to Professor Wilgus, of the University of Michigan (see Wilgus' The U. S. Steel Corporation, 1901), from whom this description is taken, the capitalization represents one-sixty-seventh of the total wealth of the United States in 1900, one-tenth of the value of the manufactures of the United States, one-fifteenth of the value of all the gold and silver mined in the world since the discovery of America, five-eighths of the value of all the farm animals in the United States in 1900, almost equal to the value of all the corn, wheat, rye, oats, barley, buckwheat, potatoes—the food crops in 1900—more than three times the value of the cotton and wool—the clothing crops—of the United States in 1900. If all the stocks and bonds had been issued in shares of $90 each there would have been one for each family in the United States, or it would pay all the expenses of the public schools of the United States for the next seven years, or there would be about $18 for each man, woman and child in the United States, or about 90 cents for each man, woman and child on the face of the earth. The corporation exercises direct and positive control over 213 different manufacturing and transportation plants and companies, and forty-one different mines, located in eighteen different states. It also controls directly over 1,000 miles of railroad to ore, coke and manufacturing properties, and a lake fleet of 112 vessels, the finest on the lakes. By "community of interest" the corporation is allied with hundreds of millions more of capital. The moving persons in the consummation of the organization of the United States Steel Corporation were J. Pierpont Morgan, the financier-organizer, and Andrew Carnegie, the manufacturer-organizer. J. D. Rockefeller, also, probably, had something to do with the organization. J. P. Morgan & Co. were the managers of the syndicate, formed by subscribers to the amount of $200,000,000, the subscribers comprising leading financial interests in America and Europe. It has been estimated that the syndicate made about $52,000,000 by the deal. If no allowance is made for good will, from one-half to four-sevenths of the stock is water; but if the capitalization is properly based on the earning capacity of a "going concern," and not on the cost of reproducing the plants, it is not excessive, being a capitalization of the earnings at about seven and one-half per cent.

There are seven of the greater industrial trusts the par value of whose outstanding stocks and bonds (The Truth About the Trusts, Moody, 1904) reaches a total of $2,662,752,100. Of this amount over one-half, or $1,370,000,000, is included in the capitalization of the United States Steel Corporation and its subsidiary companies. These trusts, except the sugar trust, have been organized since 1898, and all are incorporated under New Jersey laws. They represent an aggregate consolidation of over 1,500 distinct plants. While the par value capitalization of these trusts is $2,662,752,100, their market value is only about $2,278,460,000.

There are 298 lesser industrial trusts, representing a consolidation of over 3,400 original plants, with a total par value capitalization of $4,055,039,433. Then there are thirteen active trusts undergoing reorganization or readjustment which represent 334 plants and a total par value capitalization of $528,551,000. There are altogether 318 important trusts in this country, 236 incorporated since 1898, and 170 incorporated under New Jersey laws. The aggregate capitalization outstanding in the hands of the public is no less than $7,246,342,533, representing consolidations of nearly 5,300 distinct plants, and covering almost every line of productive industry. The capitalization of and number of plants controlled by some of the larger trusts is as follows:

	Plants.	Capitalization.
Amalgamated Copper Company	11	$170,000,000
Consolidated Tobacco Co. (about)	150	502,915,700
Standard Oil Co (about)	400	97,500,000
American Smelting and Refining Co	121	201,550,400
American Sugar Refining Co	55	145,000,000
International Merchant Marine Co	6	170,786,000

Of the greater franchise trusts, embracing public service consolidations, including telephone, telegraph, gas, electric light and electric railway companies, representing about 1,336 of the larger original corporations, the total capitalization is $3,735,456,071. Of this kind of trust the capitalization of eleven exceed $100,000,000, twenty-three exceed $50,000,000, and ninety-four exceed $5,000,000. These stand well with the industrial trusts mentioned before, ten of which have a capitalization of $100,000,000 or over, thirty of $50,000,000, or over, and 129 of $10,000,000, or over. Then there are six great railroad groups, all exceeding $1,000,000,000 in capitalization, while the Morgan group exceeds $2,000,000,000. About 445 active industrial, franchise and transportation corporations are represented in Mr. Moody's book, representing 8,664 original companies and a total capitalization of $20,379,162,551.

Besides these large corporations, there are very many more smaller ones, usually being single, unconsolidated businesses, representing billions of capitalization and of capital.

DISTRIBUTION OF CORPORATE WEALTH.

It has been estimated by Judge Grosscup that one-third of the wealth of the United States is represented by corporations. It is certain that the par value of all the stock and bonds admitted to trading in the New York Stock Exchange equals one-fifth of the nation's wealth.

It would be important to know just how the immense wealth concentrated in stock companies is distributed, just how many persons share in the ownership. There are, however, no comprehensive statistics bearing on this point. We have but two guides to an estimate. The comptroller of the currency reports that on June 30, 1904, there were 318,735 holders of the $770,594,535 capital stock of the national banks of the United States. The Interstate Commerce Commission reports that on or about the same date there were 327,851 holders of the capital stock of the railroads, which in 1903 amounted to $6,355,207,335. No record was given of the bondholders. The following table shows these figures to better advantage:

	Railroads.	Banks.
Capital	$6,355,207,335	$770,594,535
Number of stockholders	327,851	318,735
Average per stockholder	$19,380	$2,417

If it is a fact that one-third of the wealth of the country is held by stock companies, then the total stocks and bonds outstanding amount to about $35,000,000,000. Of this great sum, one-fifth, or $7,000,000,000, is shown in the above table. One-fifth of the corporate wealth is thus held by 646,586 stockholders. The same proportion extended to the other four-fifths would make 3,232,000 stock and bondholders in the United States. It is, however, probable that there are not so many. There were 67,522 stockholders of the United States Steel Corporation at the time of the last report, but as a rule the stock of industrial companies does not enjoy so wide a distribution as the stock of railroad companies, just as the stock of railroad companies is more concentrated than that of banks.

But even assuming that there are 3,232,000 stock and bond holders in the United States, it does not follow that there are that number of individuals owning stocks and bonds. For there are many individuals owning securities in different railroads, banks and industrial companies, and there must therefore be many duplications in the foregoing estimate. We are now utterly in the dark, but if, as a mere guess, we reduce the 3,232,000 stock and bondholders to 2,500,000 individuals, the showing results in 2,500,000 persons owning $35,000,000,000 of the nation's wealth, while the remaining 80,000,000 own $70,000,000,000.

Right here, however, another qualification must be made. Large blocks of the securities are held by savings banks, insurance companies and trust companies which represent millions of small investors. For instance, thirty-one insurance companies, representing 15,522,671 insurance policies, held on December 31, 1904, $1,216,865,128 of stocks and bonds. The savings banks of the state of New York, representing 2,443,555 open accounts, hold $598,125,009 par value of stocks and bonds.

There can be no doubt that notwithstanding the concentration resulting from the company's form of doing business, there is still a wide distribution of wealth in this country. This fact, however, does not alter the other fact that corporate wealth, while widely distributed, is narrowly controlled; that is to say, a constantly decreasing number of capitalists, through control of boards of directors, are in control of the immense wealth owned, directly or indirectly, by millions of individuals.—Editorial, Wall Street Journal, **1905.**

ORIGIN OF THE COMMERCIAL MANIFESTATIONS OF CORPORATE EXISTENCE:

Stock Exchanges, Stock Brokers, and Evidences of Title to Corporate Shares and Debt Secured by Mortgage.

It is not probable that stock certificates were known in ancient times; they have not been traced back of the middle of the seventeenth century. Shares of the East India Company and the Hudson Bay Company were traded in at the latter part of that century. Mr. Dos Passos says: "The Roman law required three persons to organize a corporation, and as each body had at least that number of members, if not more, it would seem but natural that a certificate, or some other substantial muniment of title, should have been issued by the corporation to its respective members, in which the proportion of interest of each in the capital or corporate property of the association appeared. But whether a certificate was, in fact, issued, and if so, was regarded as property capable of sale or negotiation, and of vesting in the personal representatives of the owner, on his decease, or whether the corporations were all in the nature of guilds, conferring upon the members mere personal rights—all of these questions seem now to be incapable of solution; and the Roman law, which sheds such floods of light upon commercial subjects, apparently leaves the above matters in total darkness." The evolution of the modern railway and industrial bond from the old bottomry bond of the middle ages, through the turnpike and canal trust, was so slow and gradual that it is hard to tell where one phase ends and another begins. Practically all the large transportation enterprises have been at least partly built from the proceeds of loans, so that the dates of the issue of loan certificates are in general coincident with the dates of turnpike, canal and railroad building. John R. Dos Passos says in his book, Commercial Trusts: "I believe that the first railroad bonds, secured by mortgage, emanated from Philadelphia," but he gives no date. It is probable that these first modern mortgage bonds were issued between 1845 and 1850, as the railroads of this country began to be developed about this time. On July 10, 1845, the Madison and Indianapolis Railroad Company, extending from Madison to Indianapolis, Ind., executed a mortgage securing $50,000 of bonds, and on July 11, 1846, executed another mortgage securing $100,000 of bonds. On May 1, 1845, the Little Miami Railroad Company, extending from Springfield to Cincinnati, Ohio, executed a mortgage securing $200,000 of bonds. But none of the bonds of these roads appears to have been issued. Of the more than three hundred different issues of bonds by the many companies which have been generally absorbed into the Pennsylvania Lines west of Pittsburg, the following appear to be the oldest:

March 9, 1849—Columbus & Xenia R. R. Co. (Columbus to Xenia, O.)	$300,000
January 1, 1850—Terre Haute & Richmond R. R. Co. (Indianapolis to Illinois State Line)	74,500
February 1, 1850—Cleveland & Pittsburgh R. R. Co. (Cleveland to Wellsville, O.)	800,000
May 1, 1850—Rushville & Shelbyville R. R. Co. (Rushville to Shelbyville, Ind.)	40,000
July 1, 1850—Ohio & Pennsylvania R. R. Co. (Pittsburgh to Massillon, O.)	1,000,000
September 21, 1851—Ohio & Pennsylvania R. R. Co. (Massillon to Crestline, O.)	750,000
January 1, 1851—Eaton & Hamilton R. R. Co. (Hamilton to Indiana State Line	25,000
February 10, 1851—Dayton & Western R. R. Co. (Dayton to Indiana State Line)	300,000
March 1, 1851—Jeffersonville R. R. Co. (Jeffersonville, Ind., to Columbus, Ind.)	289,000
April 1, 1851—Madison & Indianapolis R. R. Co. (Indianapolis to Madison, Ind.)	600,000
November 1, 1851—Columbus, Piqua & Indiana R. R. Co. (Columbus, O., to Union City, Ind.)	600,000

February 25, 1852—New Castle & Richmond R. R. Co. (Richmond to New Castle, Ind.)	300,000
April 1, 1852—Akron Branch Cleveland & Pittsburgh R. R. Co. (Hudson to Millersburg, O.)	500,000
April 10, 1852—Indiana Central Ry. Co. (Indianapolis to Richmond, Ind.)	600,000
April 15, 1852—Cincinnati, Wilmington & Zanesville R. R. Co. (Zanesville to Morrow, O.)	1,300,000
September 7, 1852—Steubenville & Indiana R. R. Co. (Steubenville to Newark, O.)	1,500,000
November 1, 1852—Richmond & Miami R. R. Co. (Richmond to Indiana State Line)	60,000
March 2, 1853—Little Miami R. R. Co. (Cincinnati to Springfield, O.)	1,500,000

The first issue of bonds, in the form now generally used, on the Baltimore and Ohio road was made April 29, 1853, the total issue being $700,000, and the bonds in denominations of $500 and $1,000 each. A letter from the secretary of the New York Central says: "It would be difficult to give the date when the first New York Central bonds were issued. In 1853 some seven or eight small companies owning roads between Albany and Buffalo consolidated, forming the old New York Central Company. In looking over the records of some of the old companies I find they had bonded indebtedness, but the records do not show whether the bonds were secured by mortgage. I have hanging in my office a debt certificate of one of the companies referred to, the Mohawk and Hudson Railroad Company, entitled 'Loan of May 11, 1837,' and after acknowledging its indebtedness, it says: 'Being for money borrowed by said company in pursuance of act of legislature of the state of New York of 11th May, 1837, and by authority given at a meeting of the board of directors on the 17th of June, 1837, etc., etc.,' and closes with this sentence, 'And the holder of this certificate shall be entitled at any time within two years from the date hereof to convert the said principal sum into capital stock of said company at par on surrendering this certificate, with the dividend warrants, on the margin hereof.' " In England, instead of the distinction between stock and bonds, the English railroad capital is divided into ordinary, preference, guaranteed, and debenture stocks, the last comprising only about 25 per cent. of the whole, and corresponding most nearly to our bonds in character. In America by far the larger part of railroad capital is provided by bonds, an issue of $100,000,000 of bonds now being not at all unusual; manufacturing and other industries are also provided with much capital through bond issues. These bonds constitute the investment side of corporate finance, while the speculative side is in general represented by the stocks.

Jacob's Law Dictionary says: "The etymology of the term Broker has been variously given. By some it has been derived from the Saxon *broc,* misfortune, as denoting a broken trader; the occupation being formerly confined, it is said, to unfortunate persons of that description (Tomlins). According to others it was formed from the French *broieur,* a grinder or breaker into small pieces, a broker being one who *beats* or draws a bargain into particulars (Termes de la Ley, Cowell). The law Latin from *obrocator,* however, seems to point distinctly to the Saxon *abroecan* (to break) as the true root, which in the old word *abbrochment,* or *abroachment,* had the sense of breaking up goods or selling at retail. A broker, therefore, would seem to have been originally a *retailer,* and hence we find the old word *auctionarius* used in both these senses (Barrill's Law Dict., tit. 'Broker'). Wharton gives, as the derivation of the word, the French *broceur,* and the Latin *tritor,* a person who breaks into small pieces (Whar. Law Dict., tit. 'Broker'). Webster gives as its derivation the old English *brocour,* Norman French *broggour,* French *brocanteur.* Under the word 'broke,' to deal in second-hand goods, to be a broker, Webster says it is probably derived from the word *brock.* Worcester derives it from the Anglo-Saxon *brucan,* to discharge an office; *brocian,* to oppress; and the French *broyer,* to grind. The word 'broker' seems first to occur in literature in Pier's Ploughman, 'Among burgeises have I be Dwellyng at London. And gart Backbiting be a brocour. To blame men's ware." It clearly means here a *fault-finder,* as in Provençal *brac* is refuse. The broker was originally one who inspected goods and rejected what was below the standard (Wedgwood). Crabbs' Dig. of Stat., tit. 'Brokers,' says: 'There were a class of persons known to the Romans who were deemed public officers, and who united the functions of bankers, exchangers, brokers, commissioners and notaries all in one under the description of *proxe netae.*' "

In 1285 the term "broker" occurs in an act of parliament. John R. Dos Passos says: "The next statute passed in the reign of James the First, more than 300 years later (1604), regulates the calling of brokers with greater detail than the first act and clearly shows, by the use of the words 'merchandise and wares,' that down to this period the broker in money, stock and funds had no legal existence. * * * It was not until the latter part of the seventeenth century, when the East India Company came prominently before the public, that trading in stock became an established business in England; and the term 'broker,' which had then a well-understood meaning, was promptly transferred to those persons who were employed to buy or sell stocks or shares, and who thenceforth became known as stock brokers."*

In 1697, because of unjust practices and designs of brokers and stock jobbers, an act was passed which permitted only sworn appointees to act as brokers. A sixteenth century writer on law said: "It is an old proverb, and very true, that between *what you will buy?* and *what you will sell?* there is twenty in the hundred differing in the price, which is the cause that all the nations do more affect to sell their commodities with reputation by means of brokers than we do, for that which seems to be gotten thereby is more than double lost another way. Besides, that by that course many differences are prevented which arise between man and man in their bargains or verbal contracts, for the testimony of a sworn broker and his book together is sufficient to end the same." The advantage of a broker as intermediary was thus early recognized by merchants.

Trading associations have existed for centuries. Angel and

---

* **Stock Brokers and Stock Exchanges, Dos Passos.**

Ames on Private Corporations says: "A Collegium Mercatorium [society of merchants] existed at Rome 493 B. C., but the modern bourse, from the Latin *bursa,* a purse, originated about the fifteenth century. Bourges and Amsterdam contend for the honor of having erected the first bourse." The early exchanges, or bourses, dealt in merchandise. The stock exchange developed with the development of stock trading. About 1675 dealers in stocks and merchandise dealt together in an exchange in Cornhill, London, and in 1698 the dealers in stocks obtained exclusive quarters. The London stock exchange was formed in 1773. About forty years later a stock market began to develop in Wall street. Philadelphia had the first American stock exchange, organized in the early part of the nineteenth century. The New York stock exchange was formed in 1817. Many other large cities now have exchanges.* European bourses exist by special legislation and are subject to control of governments, while in England and America the stock exchanges are free from government regulation.

***See The Work of Wall Street, Pratt, Chs. I and VIII.**

UNINTELLIGENT COMPETITION.

Incidental suggestions that should be of value to business corporations, large and small, are contained in an article, enentitled Unintelligent Competition a Large Factor in Making Industrial Consolidation a Necessity, which was contributed to the North American Review by Mr. James Logan, general manager of the United States Envelope Company. The following abstract is reprinted by kind permission:

> "The belief is quite general, in certain directions, that all combinations and consolidations are organized to stamp out competition and advance prices unduly. Without doubt, many consolidations have been organized with that end in view; but there are many others which have been organized to correct abuses which, on account of ignorance and lack of intelligence, have become fastened upon many lines of industry and which threatened their destruction. The fact is not lost sight of that the promoter has been one of the largest influences in the work of consolidation, but ignorant, unequal, even dishonest competition in business has brought many industries to such a condition that manufacturers were willing to listen to the plans of the promoter, or to any schemes which gave promise of even partial relief.
>
> "Usually one of the first things done by a consolidation is to revise its price lists. Then there goes up a great hue and cry about trusts, monopolies, squeezing the public, etc., by advancing prices, as though it were a crime to be unwilling to sell goods at a loss or without a profit. After a consolidation has been brought about, manufacturers have the opportunity to compare notes and see how buyers have worked one manufacturer against another, until certain classes of goods have been sold for much less than they cost. These low prices have been largely made by ignorant manufacturers, who did not know what they were doing; manufacturers who conducted their business by the rule of thumb; men who had not the capacity even to appreciate system, to say nothing of originating it. When consolidations are effected, that kind of ability usually goes to the rear, and the more intelligent men take control, men who know more

nearly what it costs to manufacture goods. And yet the buyer and the public expect the manufacturer to continue in force the prices made by the ignoramus who has been superseded; and manufacturers are expected to sell at a loss, or without a profit, simply because ignorant, cutthroat competition forced them to do so when they were powerless to prevent it.

"The consolidation of industrials has made it possible to ascertain how business has been conducted by competing firms, and the methods, or lack of methods, of some have been a revelation.

"It has been my pleasure to form the acquaintance of the managers of no less than six consolidations in different industries, and the experience of one is the experience of all. In some of the companies consolidated, they had never known the cost of manufacturing their goods; there had never been an intelligent attempt to learn the cost. The principle on which they appear to have acted was this: If one manufacturer quoted for an article a dollar, they knew they could make it for less than he could, and so quoted ninety cents. There was an absolute lack of system in everything, save in one particular—their system of price cutting without regard to cost was perfect.

"Another fact has been discovered in every one of the six consolidations referred to; the firms or corporations consolidated were successful, prior to the consolidation, just in proportion as they adhered to a fixed standard for their goods, giving to their trade exactly what they agreed to give. In other words, the firms which made the best goods had the most satisfactory trade, paid their help the highest wages, and made the most money; and those who made the poorest goods paid their help the lowest wages, and made the least money.

"It may be asked, why do not firms which conduct their business on this basis fail? and the reply is, they do. This country is strewn with the wrecks of such firms, which fail time and again, compromise with their creditors and go on again, to continue their unequal and ignorant competition. One of the hardest problems honest business men have to face is to try to do business in competition with others who own their goods through failure and compromise at anywhere from ten to fifty cents on the dollar. The ruinous feature of this kind of competition is that other manufacturers and merchants who do know their costs are in a degree forced to travel at the same pace. A manufacturer cannot hope to sell for a dollar what a competitor will sell for ninety cents, not even though the article in question costs, under the most favorable conditions, a dollar and ten cents to produce it.

"Competition is industrial war, and, like war, it is being reduced to a science. Ignorant, unrestricted competition, carried to its logical conclusion, means death to some of the combatants and injury for all. Even the victor does not soon recover from the wounds received in the conflict.

"We have had in this country great natural resources to develop. We have been for years throwing away more than would to-day be looked upon in the older countries, and in some lines of business in our own country, as a handsome margin of profit. In manufacturing industries, one invention has followed another in rapid succession, and the margin of profit has been such that it has not been deemed necessary to know exactly what the costs of production actually were.

"It has become a commonplace to say that 'the wastes of one decade are the profits of the next.' In many lines of industry that statement is well inside the truth; but we are approaching a time, if it has not already been reached in some industries, where it would seem as though the cost of production could not be materially reduced by the saving of wastes, or by the invention of improved machinery—the cost of running the machine in some industries being such a small fraction of the total cost that, even though the machine were run for nothing, the cost would not be greatly reduced.

"The father and mother of the Trade family are Supply and Demand. The first-born (and he is the legitimate offspring of these parents) is Competition. This child being more often than otherwise untrained and ignorant, frequently works untold hardship on the Trade family. Although great harm is done by this untrained and ignorant member of the family, it does not follow that the child should be strangled and put out of the way, any more than an untrained and ignorant child in a human family should be so dealt with; but he should be restrained, educated, trained and directed, in order that he may be made competent to do his full share of work. The progress of the world in everything has been by keen competition, in schools as well as in industries. Men need the stimulus of competition to do their best. To it we owe our development. It is the fuel which feeds the fire of ambition, and up to a certain point is a good thing (if the competition is intelligent rather than ignorant), but, like almost any other good thing, it can be abused.

"There must always be competition. To stamp it out, were such a thing possible, would mean stagnation and death. It would mean that there was to be no further progress; and it is no compliment to the intelligence of the business men who have done so much for the progress of the world to suggest even that they are so shortsighted as to believe that that program could be carried out.

"If there were no prizes to be obtained, men would cease to put forth the effort which makes for progress and growth. If there were no larger prizes ahead of a young man than simply a day laborer's wages, the likelihood is that a good many would not put forth the effort necessary to become anything more than a day laborer; but because there are prizes to be gained by competition, men are willing to become practically slaves to their business or profession, and in gaining those prizes for themselves they make large contributions to the sum of human progress and happiness. We need competition if we would grow, but it ought to be honest and intelligent competition, and that is not what is being had under conditions which prevail in many lines of industry at the present time.

"Some months after the consolidation of one of the leading industries in this country, in conversation with the gentleman who was at the head of the cost department of one of the firms which had been consolidated (and it was the leader in that line of industry), I learned that an order had recently been sent for estimate to his old company, and that they had figured on the order and lost it, prior to the consolidation. They had known there would be close competition, and they had gone over their cost figures very carefully, putting the price on the lowest possible basis; but when the bids had been opened, other bidders' prices were so far below theirs that they were made to appear foolish. They had reviewed their figures, and could not understand how the party to whom the award had been made could sell the goods without loss at the price at which the contract had been awarded. When the companies were consolidated, the management had taken the order from the branch which had secured the contract, and had sent it for execution to this branch whose figures were so much higher, thereby acknowledging that their facilities for doing the work were better than those of the company which had been awarded the contract. A letter was written to the company which had secured the order asking that they furnish the data on which they had based their figures. To this letter they made an evasive reply. Another letter was written, and again came back a letter equally evasive. The matter was then taken up through the manager's office, and this brought forth a letter which said they had no detail of the figures of their estimate to submit; they had done work something like this, and felt sure they could do this at the price they had submitted, and that was all the information that could be obtained. The order was filled at a very considerable loss.

"Now for the application. The company to which the order was sent for execution had not failed to pay a dividend but once in over thirty years. The company which secured the contract at the low price had not paid a dividend for seven years, and under existing conditions and management was not likely to pay one for seven years more.

"A successful firm is not produced by chance, but by intelligence persistently applied; and this successful firm had made its dividends fully as much by orders which it had not accepted as by orders it had accepted. They knew where profit ended and where loss began; and when it became a question of paying a customer to do his business, they had let the other manufacturer have that privilege.

"The competition hardest to meet is not usually that of successful firms, who know what they are doing, but of firms whose business creed appears to be summed up in the lines:

" 'So on I go not knowing,
'Tis blessed not to know.'

These are the firms which fail, and whose competition often causes others to fail; and the cause of their failure is largely the result of ignorance of the cost of production to the manufacturer or the cost of doing business to the merchant. For such ignorance, indeed, they are, in many cases, not entirely to blame.

"Men rarely go into business directly from the ranks of industry. The offshoots from the established houses are usually heads of departments, office men, superintendents and foremen, and I suppose it is well inside the truth to say that nine out of every ten such employes, kept in ignorance of the true condition of business, believe their employers to be making profits very greatly in excess of the amounts actually made.

"The great majority of business men endeavor to keep the details of their business to themselves. They want to have as few as possible of the men connected with their business know the cost of their goods and what profits they are making. The result is that many of these men have no knowledge of the costs of production to a manufacturer, and are wholly lacking in a knowledge of what it costs to do business as a merchant.

"The point I would make is this: Is it wise to let such men think that the costs of doing business as a merchant are simply store rent and clerk hire, and the costs of manufacturing are simply those larger items, like labor, rent, heat, power, etc., which stand out prominently, leaving out of their thought the services of the proprietor, and that multitude of other costs, many of the items small in themselves, but in the aggregate the mighty factor which decides whether the balance is to be on the right or wrong side of the profit and loss account; to let them go on guessing that the profits of the business are two or three times what they actually are; to keep them in ignorance of the true condition of the business, which, if known to them, would in thousands of cases remove from them the temptation to start in business for themselves, and thus prevent a large part of the competition that kills? Such men are not entirely to blame that they have not the capacity to carry a 'Message to Garcia.' They have never had an opportunity to do work that would fit them for such service, and their employer often could not carry a 'Message to Garcia' either. Would it not be wiser to adopt the other course, to train and educate a man so that he may become more valuable to the firm? A man cannot grow and use good judgment in business matters, if a knowledge of the facts, which is the basis for judgment, is withheld. Men do not expect growth in anything else where the means of growth are cut off. Why should they in business? Then, if the man grows, pay him for this increased efficiency, of which the firm gets the benefit; and when that is done, if such a man does go into business on his own account, he will be an intelligent, rather than an ignorant, competitor.

"Statistics are often quoted which show that only a very small percentage of the men who embark in business on their own account succeed—those who have given the matter careful thought say from three per cent. to five per cent. Whether that be correct or not, I do not pretend to say; but this we do know, a large percentage do not succeed.

"There is reason for this enormous commercial death rate; and, in my opinion, one of the chief causes is bad accounting, and, as a consequence, ignorance of cost of production, as a manufacturer, and of doing business, as a merchant.

"Many men accounted shrewd, having no knowledge of accounts themselves, utterly fail to appreciate the real purpose of bookkeeping and accounting, and act on the assumption that any boy or girl just out of school, who can be hired at the smallest salary and who is wholly lacking in business training, is competent to do their bookkeeping. That might be true if the only function of bookkeeping were to see that sales were properly charged and accounts collected when due. That work is essential and must be done correctly, if one would remain solvent; but there is another function which is equally important and which is too often neglected. Books of account should be so kept that, at the end of each period, there could be made up a statement of the business in each department in all its detail, giving the detailed costs connected with the business. It is not enough that these costs should go into a few general accounts. They must be subdivided so that comparisons can be made from year to year. If costs are increasing, the comparisons will reveal the fact; if there are leaks, they will be detected and stopped; but that work requires brains and business training, and the salary investment made in employing a competent accountant will yield large returns, giving to the management facts, not guesses, in the matter of cost of production.

"The demands of the new century will not admit of guesswork. The management of the future must have a definite knowledge of the cost of production—not in a vague and general way, but in a concrete and specific way. Success by the rule of thumb has gone forever, and in the years to come success will be won only through exact and definite knowledge.

"The manufacturer's endeavor is to reduce the *cost* of production, but there are two mighty forces at work all the time to reduce the *price* just a little faster than the manufacturer can reduce the cost. These are the buyer and the traveling salesman, and they have helped to make consolidations a necessity.

"The manufacturer who is ignorant of cost will usually be ignorant of other conditions connected with his business, and both he and his salesman will be at the mercy of the unscrupulous buyers. All buyers are not unscrupulous, and there is something to be said in behalf of the salesman. The writer has been a salesman for over five and twenty years. He has been in the employ of others, and he has for years sold his own goods, so that he is not giving hearsay evidence of conditions.

"The traveling salesman's burden is not an easy one to bear. From Monday morning till Saturday night he hears one story from the buyer: 'He is not in it, not even a little bit;' 'his prices are not right;' 'we have quotations much more favorable;' 'so-and-so has agreed to deliver;' 'another one will give three months' dating;' 'at even prices they prefer to give him an order,' and so on. Such statements may be true, and they may not.

"After the consolidation of the company of which I have an intimate knowledge, the correspondence which had passed between the several companies and buyers from all over the country was open for inspection; so also was the correspondence sent in prior to the consolidation by traveling men, as to what the other manufacturers were reported to be quoting; and it was a most instructive exhibit. Prices which had never been quoted, and special terms which existed only in the fertile brain of the buyer, had been met by competing manufacturers. Statements were made by buyers as to the volume of their business which were wilder than political estimates made on the stump, and which had been used as a lever to get quotations and terms to which the party making them was not entitled.

"The salesman's position is dependent upon the business which he obtains. His orders must be obtained from the buyer, with whom he must keep on good terms to obtain orders. In time, he often becomes better acquainted, and on terms of even greater intimacy, with the buyer than with the house which he represents. The result is that pretty much anything the buyer asks for he can have. The traveling man will say to his house that he cannot retain the trade unless the concessions asked are granted; and, as often happens, the manufacturer, being known to the buyer only through the salesman, is completely at their mercy, and accepts the conditions laid down.

"Add to this the fact that the manufacturer himself does not know the cost of his goods; does not know where profit ends and where loss begins; and, of course, the traveling salesman cannot know under those conditions. He more often than otherwise only knows the selling price which has been given him, and, no matter what that price may be, his assumption is that it involves a large profit. And when a salesman goes out on the road, even with a schedule of the lowest prices, usually his final instructions from the man who does not know his cost is to "get the orders, and, if it is necessary to cut those prices, to cut them," and with such instructions the prices are cut.

"There are many large firms and corporations to-day conducting their business by the old rule of thumb, and that will one day produce their downfall. Not having wrought out an intelligent system of accounting while the business was being developed, they now find themselves handicapped by a lack of system and a lack of knowledge of cost, which, with the small margin of profits which must rule for the future, is so essential if a manufacturer would succeed. Worse still, they are handicapped by a force of men in their several departments who, never having given much thought to such detail, utterly fail to appreciate its importance, many of them being now past the time of life when they are willing to learn new ways.

"Almost every corporation, firm and educational institution has connected with it a certain proportion of men who act as brakes on the wheels of progress. Being too old to take up new methods, they set themselves squarely across the path of progress, and not only refuse to advance themselves, but make it next to impossible for others to make headway—their argument being that this is the way in which work has been done; these are the methods we have followed for years; they have been good enough in the past, they ought to be good enough now.

"Many of these men have been connected with the business for a lifetime; and, in their thought, years of inefficient service ought to count as an equivalent for efficiency. They have been engaged in the

UNIVERSITY OF CALIFORNIA

industry so long that they labor under the impression that they know all that there is to be known; and their very conceit closes up the avenue through which light could and would come to make them more efficient, if they would but let it.

"Again, there is another class of men who are and have been for years agents, superintendents and foremen, who were never fitted, either by natural endowment or acquired ability, to fill such positions. They would never have been *selected* for their present posts, but in the early days of the business they *drifted* into their places, and they have drifted ever since.

"Consolidations are, for the most part, made up of firms which have grown up from very small beginnings. Twenty-five years ago it was exceptional for factories to begin with any considerable working force. They usually started small, and, from time to time, as the business increased, added to their plant. Now that has been all changed; and a plant is created in three or six months which starts fully equipped and capable of turning out a product as large as that of firms that have been working to build up a trade for a score of years.

"The agents, superintendents, foremen for such new plants, usually being drawn from other going concerns, are selected because of their fitness.

"The old method was very different. For example: In an office a young man was hired as bookkeeper, and he did pretty much all the office work that was not done by the proprietor. In time, as business grew, another clerk was hired. In the course of years the office staff had grown till there were a dozen clerks, and the man who chanced to be the first had been promoted at different times until he came to be the agent or superintendent. But he had stopped growing long ago, and simply held a position which he never filled. His being there, however, had prevented some one else from filling it who could, and who, had he been given the opportunity, would have rendered a larger service. Had the inefficient man been set aside and the progressive, efficient man put in his place, the business would, perhaps, have been saved from bankruptcy, and instead of the company dying of dry rot, it might be giving employment to hundreds of other employes. This illustration applies with equal force to many of the departments connected with almost every manufacturing establishment.

"The management of the consolidation is severely criticised because it refuses to be handicapped by such men, and in making changes it often works hardship to the individual; but continuing an inefficient man in a position which he did not fill wrought hardship to the efficient man who was kept out of it, and also to hundreds of employes who have been deprived of work which the other man's ability would have provided. So that the hardship is not all on one side.

"Consolidations have closed factories and have thrown many faithful and efficient employes out of work. But every failure through such inefficiency as has been described has done the same thing; and, in many cases, had the consolidation not been brought about, failure would have been the next step.

"Then again, owing to antiquated equipment, poor management or economic conditions, it is simply impossible to operate some factories except at a loss; and even though the consolidation had not been consummated, many factories which have been closed by the consolidation would have been closed by the operation of economic law. The final result has simply been anticipated a little, and not a great while either.

"A gentleman who was connected with a line of industry which had recently been brought under consolidation said to me that the consolidation had discharged three men, and that he was now working four times as hard as he did formerly. I suggested that a man was somewhat better than a machine and more was expected of him; but that, if he had in his factory a machine from which he could get only 25 per cent. of efficiency he would throw it into the junk heap, and if he, as a man, drawing a good salary, had been only rendering 25 per cent. of his efficiency, he, too, was entitled to a place in the scrap heap. In this day and generation, 25 per cent. of efficiency means to step out and give some one else a chance, who can and will work at higher pressure and render larger service."

ADVANTAGE OF FOREIGN CORPORATIONS IN COURTS.

Corporations sometimes desire to be incorporated in another state than that in which their business is located so as to be able to have suits transferred to the federal courts. A corporation of one state, doing business in another state, has the right to bring suits in the latter state in the United States courts instead of the courts of the state, if the amount involved exceeds two thousand dollars. And if a suit involving that amount or more is brought against such a corporation in a state court it has the right to remove the cause to the United States court for trial and judgment. This privilege is given by the constitution of the United States to non-resident citizens, and is enjoyed by corporations equally with individuals bringing or defending suits outside of the states of their residence. It is granted for the purpose of relieving non-residents of the effect of any local prejudice, and a non-resident corporation may waive the privilege and sue or defend in the state courts like a resident corporation if it chooses to do so.

APPENDIX

APPENDIX.

Rules of New York Stock Exchange on Admission of Securities.

RULES PERTAINING TO THE ADMISSION OF LISTED SECURITIES.

COMMITTEE ON STOCK LIST.

April 15, 1901.

1. The committee on stock list will meet on each Monday at 3:30 P. M. at the offices of the exchange.

All applications to list securities must be addressed to the committee and should be filed with the secretary of the exchange on or before the Wednesday prior to their consideration.

REQUIREMENTS FROM APPLICANTS.

2. *In all cases of application for an original listing of either stocks or bonds of railroad companies, it is required that there shall be filed a* STATEMENT *of the location and description of the property, and when possible also a map thereof. Said statements should give title of the company, when the corporation was organized, and by what authority, route of road, miles of road completed and in operation, contemplated extensions, equipment, liabilities and assets, earnings, amount and description of mortgage lien or other indebtedness; also a statement of and liability for any leases, guarantees, rentals or car trusts, and terms of payment thereof; also the number of shares of capital stock authorized; the par value thereof, a list of officers and directors, the office of the company, transfer office and registrar; together with names of transfer officer and registrar. If it is a reorganization of another company, the particulars should be stated, as required by Paragraph* 5. SEVEN COPIES *of this statement in type, or typewritten,* SIGNED BY AN OFFICER OF THE COMPANY, *should be furnished to the committee, together with a like number of copies of trust deeds, mortgages, or other corporate agreements pertaining to the application.*

3. *Applications to place bonds on the List* (SEVEN *copies required*) *must give a description of the bonds, viz.: The amount of authorized issue, names of trustees, date of issue and of maturity, the par value of each kind of bond issued, series of numbers, rate of interest, when*

and where payable, whether the bonds are subject to earlier redemption by sinking fund or otherwise, whether bonds are issued in coupon or registered form, and whether they are transferable into other forms: and name of transfer agent and place of transfer, if said bonds have privilege of registration. The application should also state disposition of proceeds of the issue, and must be accompanied by a balance sheet and a statement of income account of a recent date. SEVEN *copies of the mortgage, one being certified by the trustee to be a true and correct copy, together with evidence that it has been duly and properly recorded as a lien upon the property, and similar copies of other corporate documents must also be furnished. Bonds upon completed mileage* ONLY *will be listed.*

4. When application is made to place the securities of any railroad corporation upon the list, the applicant must present a certificate from a duly qualified civil engineer stating the actual physical condition of the property as of a recent date.

5. When application is made to list securities of a corporation, which has been insolvent or has been reorganized, the exchange will require a full and complete financial statement of said corporation, or of its predecessor, for a period covering at least one year prior to reorganization; i. e., a detailed statement of earnings and receipts from every source, a detailed account of all expeditures, and the amount of all outstanding indebtedness of every description in detail, and a balance sheet of the books of the reorganized company; also the amount and description of the various securities issued by such reorganized corporation, and the purposes and terms, in detail, under which they are to be or have been issued. If the property has been sold under foreclosure, copies of the order of court confirming such sale, with a concise history of the proceedings, must be furnished, together with certificate from counsel that the proceedings have been in conformity with all legal requirements, and that the title to the property is now fully vested in the new corporation and is free from all liens and incumbrances, except as distinctly specified.

6. When bonds are issued, which by their terms are intended to replace one or more authorized prior issues, *the exchange will require evidence of the satisfaction of such prior liens*, or a cancellation or cremation certificate of the bonds retired, as a condition precedent to listing.

7. Application for listing additional amounts of securities of railroad companies, already represented upon the exchange, should state the amount and character of the additional issue, the authority therefor and the application of the proceeds; if for the acquisition of new property, the application should describe said property.

8. In every case of listing of bonds, the committee must be furnished with a certificate from the county clerk of each county in which the mortgaged property is located, that such mortgage has been recorded in each of such counties; should the laws of the state in which the property is located not require a record to be made in the several counties, a certificate of the secretary of said state of the proper record of the same, *or a copy of the mortgage with such certificate of record indorsed thereon, and certified by the trustee to be a true copy, will be required.*

9. Original applications to list any securities of industrial or manufacturing companies must be accompanied by a copy of charter or act of incorporation, by-laws of the company, opinion of counsel that the company has been legally organized and that the securities have been legally issued, statement whether this is an original organization or a consolidation of several previously existing firms or corporations; if a consolidation, statement of financial and physical condition of constituent companies must be furnished, a full description of the property, real, personal and leased; nature and character of product, and general statement of the business proposed to be transacted; opinion of counsel that real estate owned is free and clear, except as to stated liens; report of responsible expert accountants, showing results of business each year for the period of at least two consecutive years if possible, and a balance sheet showing assets and liabilities of recent date; statement of special rights and privileges of directors, as conferred by charter or by-laws, and agreement that the company will not dispose of its stated interest in the constituent companies except on direct authorization of stockholders, and that it will publish at least once in each year a properly detailed statement of its income and expenditures for such preceding period; and also a balance sheet, giving a detailed and accurate statement of the condition of the company at the close of its last fiscal year or of recent date. Applications to list additional amounts of such securities must give like additional information, together with a statement of the application of the proceeds of securities so issued.

10. Applications to list securities of all other companies must be accompanied with like information as to property, financial condition, and results of business, as indicated above.

11. *Every application for listing securities must be accompanied by a check for the amount of fifty dollars for each* $1,000,000, *or portion thereof, of the par value of each class of security presented for listing. Said checks should be drawn to the order of the "Treasurer of the New York Stock Exchange," and will immediately become the property of the exchange.*

TRUSTEES OF MORTGAGES.

12. The committee recommends that a trust company or other corporation should be appointed trustee of each mortgage or trust deed: when a state law requires the appointment of a local individual trustee, then a trust company or other corporation should be appointed as co-trustee.

13. The committee will not approve of an officer of an applicant corporation as a trustee of securities issued by it, nor will it regard such officer or director as being qualified to give opinion as counsel in regard to any legal question affecting the corporation.

14. *In all cases where two or more liens have been placed upon the same real property of a corporation, seeking the listing of its securities upon the exchange, each lien must be represented by a trustee or trustees entirely separate and distinct from those to whom any other liens upon the same real property, either in part or in entirety, have been entrusted.*

15. The trustee must present to the committee a certificate acknowledging the acceptance of the trust and giving the numbers and amount of bonds executed in accordance with the terms of the mortgage; in case the trust deeds shall require the deposit of collateral as security for the mortgage, the trustee shall certify to the deposit of such collateral, specifying it in detail. In the matter of additional issues of bonds the trustee must certify that such increase has been made in conformity with the terms of the trust deed, and that the lien of the mortgage has been duly recorded against any new property acquired, or that the required additional collateral has been duly deposited.

16. It is requested that a trustee shall furnish opinion of counsel approximately in the following form:

"We have examined the mortgage, dated ......, ..., made by the .... Company to the .... Trust Company of .... as trustee, to secure an issue of ...... bonds of said company to an amount not to exceed $...... We are of opinion that the actions of the directors and stockholders in respect to this mortgage were in conformity with the laws of the state of .... and are in accordance with the laws of all states in which the property so mortgaged is situated, and that the mortgage and bonds therein referred to are, in all respects, valid and binding obligations of said company."

ENGRAVED CERTIFICATES REQUIRED.

17. The face of every bond, coupon, or certificate of stock must be printed from steel plates, which have been engraved in the best

manner, and which have such varieties of work as will afford the greatest security against counterfeiting.

18. For each document or instrument there must be at least two steel plates, viz.: A *Face plate* containing the vignettes and lettering of the descriptive or promissory portion of the document, which should be printed in black, or in black mixed with a color; also a *Tint plate* from which should be made a printing in an anti-photographic color, so arranged as to underlie important portions of the face printing.

19. These two printings must be so made upon the paper that the combined effect of the whole, if photographed, would be a confused mass of lines and forms, and so give as effectual security as possible against counterfeiting by scientific or other processes. The imprint of each denomination of bonds must be of such distinctive appearance and color as to make them readily distinguishable from other denominations and issues. It is required that for each class of stock issued there shall be a distinctively engraved plate for *one hundred shares with said denomination engraved thereon in words and figures;* and for certificates issued for smaller amounts than one hundred shares, *there shall be similar plates, distinctive in design or color, for each issue, and there shall be engraved thereon some device whereby the exact denomination of the certificate may be distinctly designated;* and they shall also have conspicuously engraved thereon the words, "*Certificate for less than one hundred shares.*"

20. It is required that a sample of each issue of stocks or bonds sought to be listed shall be referred to the committee for acceptance as to form, character and workmanship *prior to application for their listing;* no form of stock certificate or bond will be accepted unless it has been carefully engraved by some bank-note engraving company *whose work the committee on stock list has been authorized by the governing committee to accept for admission to the list.*

REGISTRATION.

21. The constitution of the exchange provides that all active stocks must be registered at some institution satisfactory to the committee; each application must be accompanied by a letter from the registrar stating the amount of stock registered at the time of application.

22. The exchange requires that a trust company, or other agency, shall not at one and the same time act as registrar and transfer agent of a corporation. The duties of such offices should be performed by different companies or agencies.

23. In any case of increase of capital stock, except for convertible bonds already listed, at least thirty days' notice of such intended

increase must be given in writing to the stock exchange, and application must be made through the committee on stock list to the governing committee to have such new stock admitted to the list; the registrar will not be authorized to register any new stock until notified by this committee that such stock has been duly listed.

24. All signatures upon securities must be written. Stamped signatures will not be accepted by the committee.

CERTIFICATES OF STOCK.

25. The power of attorney indorsed upon a certificate of stock must contain a full bill of sale, must be irrevocable, and must contain a power of substitution.

26. After a stock has been placed on the list, any change in the form of certificates or place of registry or transfer must receive the approval of the committee on stock list.

All alterations or amendments proposed to be made to bonds or certificates of stock, subsequent to the original issuance thereof, must be submitted to the committee for approval as to form and printing, as a condition precedent to listing.

The committee will not favorably consider any impress which has been made by a hand stamp upon any security.

27. The governing committee may refuse to make new issues of stock a good delivery, or allow dealings therein, and it may suspend dealings in the capital stock, or in the bonds of any company, either for a time or permanently, as the case may seem to require.

CERTIFICATES OF DEPOSIT IN TRUST.

28. Institutions, firms or corporations which are depositaries of securities under plans of reorganization, protective or associate action, are requested to accept on deposit *only such securities as are good delivery in the exchange;* provided, however, that in any case where said depositaries find it necessary to accept securities which are not a good delivery, they shall issue therefor a *distinctive certificate* which will indicate such fact. Agreements for deposit of securities for protective or associate action must be limited to a specified time for continuance, within which a plan of reorganization or adjustment will be presented to the certificate holders for acceptance, or in default thereof such holders will be granted opportunity to withdraw the securities represented by their certificates, and their assent to said agreement thus terminated. Penalty for delay in depositing securities under any agreement should not be imposed until all holders of such securities shall have had reasonable

opportunity for so depositing, after the listing of the depository certificates upon the exchange.

29. When bonds are deposited with institutions, firms or corporations, which are depositaries under plans of reorganization, protective or associate action, certificates therefor will be considered as representing the deposit of *coupon* bonds. *When certificates are issued for deposit of registered bonds, said certificates must bear on their face evidence of such fact.* Certificates of deposit for securities, whether for reorganization, protective or associate action or for voting trustees, must bear the countersignature of some institution as registrar, in same manner as certificates for stock.

RECOMMENDATIONS.

30. The exchange recommends to the various corporations whose securities are here dealt in, that they shall print, publish and distribute to stockholders, *at least fifteen days prior to annual meetings*, a full report of their operations during the preceding fiscal year; together with complete and detailed statements of all income and expenditures, and a balance sheet showing their financial condition at the close of the given period. The exchange requests that stockholders of the several corporations take such action as may be necessary for the accomplishment of this recommendation.

WILLIAM H. GRANBERY, Chairman.

WILLIAM McCLURE, Secretary.

RULES PERTAINING TO THE ADMISSION OF UNLISTED SECURITIES.

COMMITTEE ON UNLISTED SECURITIES.

In re Applications for Quotation in Unlisted Department.

State name of corporation, date of incorporation, the state in which it is incorporated, if personal liability attaches to ownership and if stock is full-paid.

Authorized capital.

Preferred stock—(Cumulative or non-cumulative ...... %).

State nature of preference of preferred over common stock in regard to voting, dividends and assets.

Common stock.

Amount of each outstanding.

Par value of shares, preferred.

Par value of shares, common.

Transfer agent, New York.

Transfer agent, elsewhere.

Registrar, New York.

Registrar, elsewhere.

State if certificates issued elsewhere are transferable in New York without discharge.

State how generally stock is distributed, about number of stockholders and if any stock is in the hands of trustees for stockholders of acquired or constituent companies.

Dividend rates and dates of payment.

Balance sheet last issued, if of recent date.

If incorporation is of a recent date, a statement of the net earnings of the acquired or constituent companies for a period of three years must be made.

Bonded indebtedness:

Give particulars—Date of maturity. Rate of interest. Sinking fund requirements.

Amount authorized.

Amount outstanding, and if interest has all been paid.

Bonded indebtedness of acquired or constituent companies (with particulars as above).

State if acquired or constituent companies are owned in fee; if not, give amounts of various acquired or constituent companies' stocks owned, also amount authorized.

Give history of corporation (and if composed of old companies name them), location of plants, character of buildings, acreage and nature of business conducted at each plant.

Board of directors, give address (city only). Classified, if in classes.

List of officers.

Furnish sample of each kind of stock certificates.

Letter accepting transfer agency from transfer agent.

Letter from registrar accepting office.

Letter from counsel *in re* legality of incorporation.

Certified copy of charter or articles of incorporation and by-laws.

The committee will require that the articles of incorporation or the by-laws provide that the company shall not deal in its own shares or in the shares of constituent or acquired companies, and that an annual report to stockholders be issued.

Every application for a quotation in the unlisted department for securities must be accompanied by a check for the amount of fifty dollars for each $1,000,000, or portion thereof, of the par value of each class of security. Checks should be drawn to the order of the "Treasurer of the New York Exchange," and will immediately become the property of the exchange.

Furnish four copies of application.

BIBLIOGRAPHY OF SOME USEFUL BOOKS ON CORPORATION LAW, HISTORY, MANAGEMENT, ETC.

AUTHORITIES AND TEXTS.

Cook on Corporations.
Morawetz on Corporations.
Thompson on Corporations.
Angell and Ames on Corporations.
Kyd on Corporations.
Taylor on Corporations.
Elliott on Corporations.
Clark on Corporations.
Dill on New Jersey Corporations.

CASES.

Wilgus's Corporation Cases.
American and English Corporation Cases.

STATUTES.

American Corporation Legal Manual.
(Digest of Statutes and Decisions.)
Frost, The Incorporation and Organization of Corporations.
(Discussion of Statutory Provisions and Synopsis-Digest of Corporation Laws.)
Overland, Classified Corporation Laws.

POPULAR BOOKS ON ORGANIZATION AND MANAGEMENT.

Conyngton, Corporate Organization (1 Vol.), and Corporate Management (1 Vol.).

(Excellent books for lawyers as well as corporation officers and stockholders. They contain the most extensive discussions of prudential matters of corporate concern.)

Clephane on Business Corporations.
Spelling on Corporate Management and By-Laws.
Tompkins, Summary of the Law of Private Corporations.

HISTORICAL.

Early chapters of several texts, including Elliott.
Davis, Corporations: Their Origin and Development.
(Academic, up to modern times, but nothing modern.)
Sohm's Institutes of Roman Law, and Savigny.
(Accounts of Roman Corporations.)
S. E. Baldwin, Modern Political Institutions.
(General Incorporation in Roman and English Law.)
Cranston and Keane, Early Chartered Companies.

ECONOMICS.

Ripley, ed., Trusts, Pools and Corporations.
Jenks, The Trust Problem.
Montague, Trusts of To-day.
Meade, Trust Finance.*
Moody, The Truth About the Trusts.
Ely, Monopolies.
Collier, The Trusts.
Symposium, The Trust: Its Book.

GENERAL: REFERENCE TO SPECIAL CLASSES OF CORPORATIONS OR CORPORATE BUSINESS.

Johnson, American Railway Transportation.*
Hadley, Railroad Transportation.
Cleveland, Funds and Their Uses.*
Pratt, The Work of Wall Street.*
McVey, Modern Industrialism.*
Moody, The Art of Wall Street Investing.
Greene, Corporation Finance. (An unusually excellent book.)
Wilgus, The United States Steel Corporation.
Tarbell, History of the Standard Oil Company.
Montague, Rise and Progress of the Standard Oil Company.
Dos Passos, Stockbrokers and Stock Exchanges. (Standard law book on this subject.)

See also the arguments before the Industrial Commission at Washington, D. C.

SPECIMENS OF SECURITIES.

Specimens of Investment Securities, compiled by W. G. Sumner, of Yale, published by the C. P. Judd Company, New Haven Conn.

(This collection was compiled for class-room use, but is excellent for attorneys. It contains specimens of sixty-four varieties in the form of securities, each general type being given in full, with essentials of variations being quoted afterward.)

---

* Appleton's Business Series, an excellent synopsis of modern business practices.

CORPORATION ACCOUNTING.

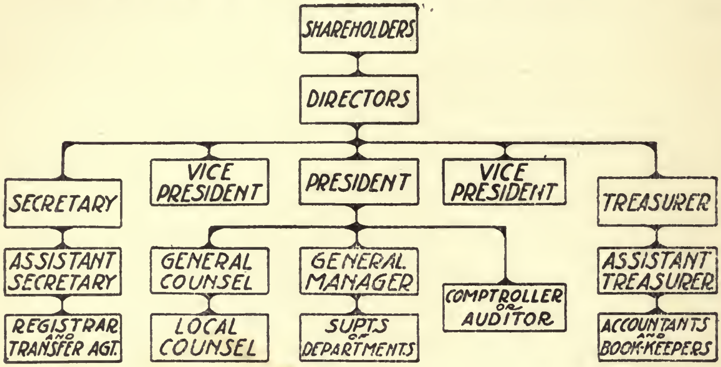
Keister's Corporation Accounting.
Goodwin's Manual.
Hatfield, Modern Accounting.*
Dicksee's Auditing.
(American edition of English work on professional auditing.)

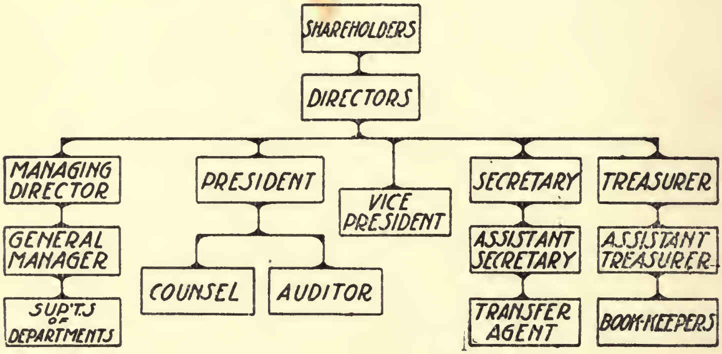
STATISTICS ON CORPORATIONS.

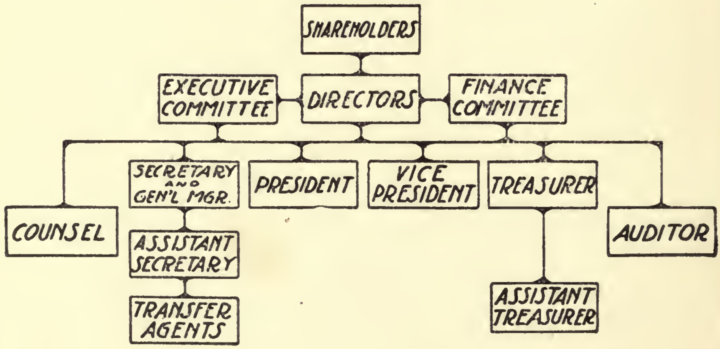
Manual of Statistics.
Moody's Manual of Railroads and Corporation Securities.
(Both contain up-to-date financial, statistical, and general information concerning individual American corporations of all classes.)

*In Appleton's Business Series.

CHARTS SHOWING POSSIBLE DISTRIBUTION OF OFFICERS, ETC., AND THEIR RESPONSIBILITY


SHAREHOLDERS
DIRECTORS
SECRETARY
VICE PRESIDENT
PRESIDENT
VICE PRESIDENT
TREASURER
ASSISTANT SECRETARY
GENERAL COUNSEL
GENERAL MANAGER
COMPTROLLER OR AUDITOR
ASSISTANT TREASURER
REGISTRAR AND TRANSFER AGT.
LOCAL COUNSEL
SUPT.S OF DEPARTMENTS
ACCOUNTANTS AND BOOK-KEEPERS


SHAREHOLDERS
DIRECTORS
MANAGING DIRECTOR
PRESIDENT
VICE PRESIDENT
SECRETARY
TREASURER
GENERAL MANAGER
ASSISTANT SECRETARY
ASSISTANT TREASURER
COUNSEL
AUDITOR
SUP'T.S OF DEPARTMENTS
TRANSFER AGENT
BOOK-KEEPERS


SHAREHOLDERS
EXECUTIVE COMMITTEE
DIRECTORS
FINANCE COMMITTEE
SECRETARY AND GEN'L MGR.
PRESIDENT
VICE PRESIDENT
TREASURER
COUNSEL
AUDITOR
ASSISTANT SECRETARY
TRANSFER AGENTS
ASSISTANT TREASURER

HOW A GREAT ENGINEERING COMPANY DISTRIBUTES THE MANAGEMENT OF ITS BUSINESS

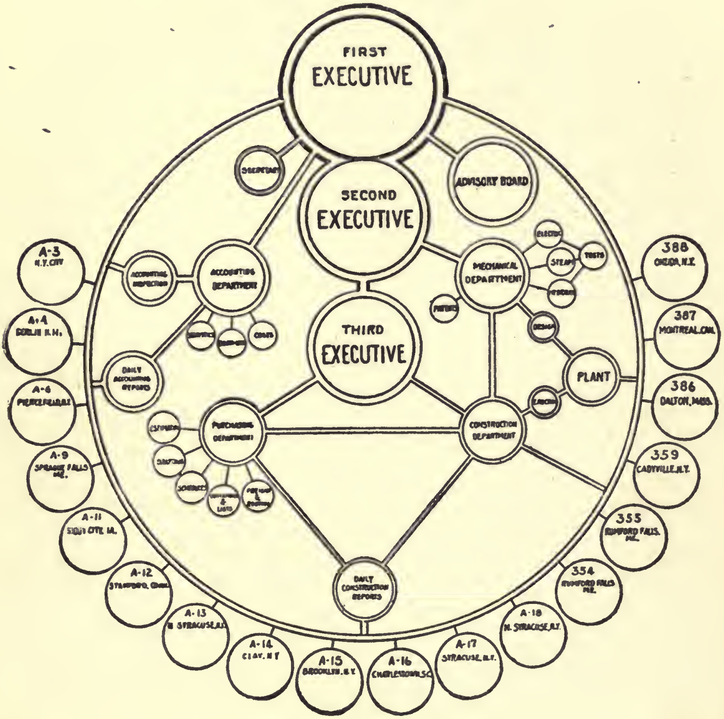

FIRST EXECUTIVE
SECRETARY
ADVISORY BOARD
SECOND EXECUTIVE
ACCOUNTING INSPECTION
ACCOUNTING DEPARTMENT
COSTS
DAILY ACCOUNTING REPORTS
THIRD EXECUTIVE
MECHANICAL DEPARTMENT
ELECTRIC
STEAM
TESTS
DESIGN
PLANT
CONSTRUCTION DEPARTMENT
PURCHASING DEPARTMENT
DAILY CONSTRUCTION REPORTS
A-3 N.Y. CITY
A-4 BERLIN N.H.
A-6
A-9 SPRAGUE FALLS ME.
A-11
A-12 STAMFORD, CONN.
A-13 E. SYRACUSE, N.Y.
A-14 CLAY, N.Y.
A-15 BROOKLYN, N.Y.
A-16
A-17 SYRACUSE, N.Y.
A-18 N. SYRACUSE, N.Y.
354 RUMFORD FALLS ME.
355 RUMFORD FALLS, ME.
359 CADYVILLE, N.Y.
386 DALTON, MASS.
387 MONTREAL, CAN.
388

Chart of responsibilities of officers and department heads. The small circles outside the largest circle indicate the location of the company's contracts.

—From World's Work.

TABLE OF INCORPORATION FEES IN THE STATES HAVING LIBERAL CORPORATION LAWS*†

	$10,000	$25,000	$50,000	$100,000	$150,000	$200,000	$250,000	$500,000	$1,000,000	$5,000,000	Filing and Other Fees
Arizona	$10.00	$10.00	$10.00	$10.00	$10.00	$10.00	$10.00	$10.00	$10.00	$10.00	$30.00
Connecticut	25.00	25.00	25.00	50.00	75.00	100.00	125.00	250.00	500.00	2,500.00	10.00
Delaware	20.00	20.00	20.00	20.00	22.50	30.00	37.50	75.00	150.00	750.00	15.00
Maine	10.00	50.00	50.00	50.00	50.00	50.00	50.00	50.00	100.00	500.00	17.00
Massachusetts	10.00	10.00	12.50	25.00	37.50	50.00	62.50	125.00	250.00	1,200.00	No
Nevada	15.00	15.00	15.00	15.00	22.50	30.00	37.50	75.00	150.00	750.00	
New Jersey	25.00	25.00	25.00	25.00	30.00	40.00	50.00	100.00	200.00	1,000.00	10.00
†New York	5.00	12.50	25.00	50.00	75.00	100.00	125.00	250.00	500.00	2,500.00	15.00
South Dakota	10.00	10.00	15.00	15.00	20.00	20.00	20.00	20.00	25.00	40.00	3.00
Virginia	10.00	10.00	10.00	20.00	30.00	40.00	50.00	100.00	200.00	600.00	8.00
West Virginia	20.00	20.00	50.00	50.00	70.00	90.00	110.00	210.00	410.00	1,060.00	18.00
District of Columbia	No Organization Tax. Recording fees, etc., will not exceed $10.00										

---

* To compute the total cost of incorporating, add to the incorporation fees the filing and other fees, and attorney's fees for preparing articles of incorporation.

† In all these states except New York, the fees are the same for any capitalization up to and including $10,000. In New York the organization fee for the state treasurer is one-twentieth of one per cent. on the authorized capital, making fifty cents per thousand.

TABLE OF INCORPORATION FEES OF OTHER STATES AND TERRITORIES

	$2,000	$5,000	$25,000	$50,000	$100,000	$200,000	$500,000	$1,000,000	$5,000,000	Sundry Fees (Approx.)
Alabama	$25.00	$25.00	$25.00	$25.00	$50.00	$75.00	$100.00	$200.00	$250.00	$10.00
*Alaska (See Oregon)	10.00	10.00	20.00	25.00	35.00	45.00	60.00	75.00	100.00	10.00
Arkansas	25.00	25.00	25.00	25.00	25.00	25.00	25.00	25.00	25.00	7.00
California	15.00	15.00	15.00	25.00	50.00	50.00	75.00	100.00	150.00	Small
Colorado	20.00	20.00	20.00	20.00	30.00	50.00	110.00	210.00	1,010.00	7.50
Florida	5.00	10.00	50.00	100.00	200.00	250.00	250.00	250.00	250.00	Small
Georgia	Fees to Clerk of Court only, $1 to $5					....	....	....	....	Small
Idaho	5.00	5.00	5.00	10.00	10.00	20.00	20.00	25.00	25.00	10.00
Illinois	30.00	50.00	70.00	95.00	145.00	245.00	545.00	1,045.00	5,045.00	5.00
Indiana	10.00	10.00	25.00	50.00	100.00	200.00	500.00	1,000.00	5,000.00	5.00
*Indian Territory (See Arkansas)	25.00	25.00	25.00	25.00	25.00	25.00	25.00	25.00	25.00	Small
Iowa	25.00	25.00	40.00	65.00	115.00	215.00	515.00	1,015.00	5,015.00	Small
Kansas	27.00	30.00	50.00	75.00	125.00	175.00	325.00	525.00	1,325.00	Small
Kentucky	2.00	5.00	25.00	50.00	100.00	200.00	500.00	1,000.00	5,000.00	Small
Louisiana	25.00	25.00	25.00	25.00	25.00	25.00	25.00	25.00	25.00	25.00 to 100.00
Maryland	2.50	6.25	31.25	62.50	125.00	250.00	625.00	1,250.00	6,250.00	15.00
Michigan	5.00	5.00	12.50	25.00	50.00	100.00	250.00	500.00	2,500.00	8.00
Minnesota	50.00	50.00	50.00	50.00	75.00	125.00	275.00	525.00	2,525.00	Small
Mississippi	20.00	20.00	40.00	60.00	100.00	200.00	250.00	250.00	250.00	Small
Missouri	50.00	50.00	50.00	50.00	75.00	125.00	275.00	525.00	2,525.00	Small
Montana	10.00	10.00	10.00	12.50	25.00	45.00	92.50	142.50	342.50	10.00
Nebraska	10.00	10.00	10.00	10.00	10.00	20.00	50.00	100.00	500.00	7.00
New Hampshire	10.00	10.00	10.00	25.00	25.00	50.00	50.00	100.00	200.00	Small
New Mexico	25.00	25.00	25.00	25.00	25.00	25.00	50.00	100.00	500.00	35.00
North Carolina	25.00	25.00	25.00	25.00	25.00	40.00	100.00	200.00	1,000.00	7.00
North Dakota	50.00	50.00	50.00	50.00	75.00	125.00	275.00	525.00	2,525.00	12.00
Ohio	10.00	10.00	25.00	50.00	100.00	200.00	500.00	1,000.00	5,000.00	10.00
Oklahoma	8.00	8.00	8.00	8.00	8.00	8.00	8.00	8.00	8.00	4.00
Oregon	10.00	10.00	20.00	25.00	35.00	45.00	60.00	75.00	100.00	10.00
Pennsylvania	6.66	16.66	83.33	166.66	333.33	666.66	1,666.66	3,333.33	16,666.66	40.00
Rhode Island	100.00	100.00	100.00	100.00	100.00	200.00	500.00	1,000.00	5,000.00	3.00
South Carolina	2.00	5.00	25.00	50.00	100.00	150.00	300.00	550.00	1,550.00	12.50
Tennessee	12.00	17.00	35.00	60.00	110.00	210.00	510.00	1,010.00	5,010.00	10.00
Texas	25.00	25.00	35.00	45.00	70.00	120.00	270.00	520.00	2,520.00	Small
Utah	5.50	6.25	11.25	17.50	30.00	55.00	130.00	255.00	1,255.00	15.00
Vermont	10.00	10.00	50.00	50.00	100.00	100.00	200.00	300.00	....	Small
Washington	15.00	15.00	15.00	15.00	15.00	15.00	15.00	15.00	15.00	5.00
Wisconsin	25.00	25.00	25.00	50.00	100.00	200.00	500.00	1,000.00	5,000.00	Small
Wyoming	5.00	5.00	10.00	10.00	10.00	15.00	30.00	55.00	255.00	6.20
Canada	50.00	50.00	150.00	200.00	225.00	300.00	375.00	500.00	900.00	Small

*By act of Congress, laws of a contiguous or near state are extended to a territory and put in force as far as the laws are applicable.

TABLE OF ANNUAL EXISTENCE FRANCHISE TAXES IMPOSED ON DOMESTIC, BUT NON-RESIDENT, CORPORATIONS BY THE STATES HAVING LIBERAL CORPORATION LAWS*

(These taxes apply to all domestic corporations of these states except in the case of West Virginia, where they apply only to non-resident corporations.)

	$2,000	$5,000	$10,000	$25,000	$50,000	$100,000	$150,000	$200,000	$250,000	$500,000	$1,000,000	$5,000,000
Delaware	$1.00	$2.50	$5.00	$12.50	$25.00	$50.00	$75.00	$100.00	$125.00	$250.00	$500.00	$2,000.00
Maine	5.00	5.00	5.00	5.00	5.00	10.00	10.00	10.00	25.00	25.00	50.00	150.00
Massachusetts	2.00	5.00	10.00	25.00	50.00	100.00	150.00	200.00	250.00	500.00	1,000.00	5,000.00
New Jersey	2.00	5.00	10.00	25.00	50.00	100.00	150.00	200.00	250.00	500.00	1,000.00	4,000.00
†New York	3.00	7.50	15.00	37.50	75.00	150.00	225.00	300.00	375.06	750.00	1,500.00	7,500.00
West Virginia	20.00	20.00	20.00	20.00	50.00	50.00	70.00	90.00	110.00	210.00	410.00	1,060.00
Virginia	10.00	10.00	10.00	10.00	20.00	40.00	60.00	60.00	60.00	100.00	200.00	600.00

* Arizona, Connecticut, the District of Columbia, Nevada and South Dakota impose no annual existence franchise tax.

† New York has an income franchise tax. The above is computed on the basis of a 6 per cent. dividend on the various amounts of capital, all of which capital is employed in New York. On the proportion of capital represented in the state, a foreign corporation is required to pay 1½ mills of tax on the dollar if the dividends are less than 6 per cent.; if dividends are more, the amount of dividends made and declared is taxed ¼ of a mill for each one per cent.

TABLE OF TAXES, REPORTS, MEETINGS AND SUBSCRIPTION PAYMENTS

Applicable to Foreign Corporations Organized Under States Having Liberal Laws

STATES	Lowest Organization Fee	Fee for $1,000,000	Reports	Meeting of Stockholders	Meeting of Directors	How Stock May Be Paid
*Arizona	$10	$10	Not Required	In Territory	May be out of Territory	Money, Property, Services
‡Connecticut	25	500	Not Exacting, but Penalty	In State, Except First	May be out of State	Money, Property
‡Delaware	20	150	Not Exacting	As By-Laws Provide	May be out of State	Money, Property, Services
‡Maine	10	100	Not Exacting	In State	May be out of State	Money, Property, Services
‡Massachusetts	10	250	Exacting and Penalty	In State	May be out of State	Money, Property, Servc's, Expenses
Nevada	15	150	Not Exacting	As By-Laws Provide	May be out of State	Money, Property, Services
New Jersey	25	200	Not Exacting	In State	May be out of State	Money, Property, Stocks
†New York	1	500	Exacting on Request	In State	May be out of State	Money, Property, Services
†South Dakota	10	25	Not Mandatory, but Directory	Anywhere	May be out of State	Money, Property, Services
Virginia	10	600	Not Exacting	In State	May be out of State	Money, Property, Services
‡†West Virginia	20	410	Not Exacting, but Penalty	As By-Laws Provide	As By-Laws Provide	Money, Property, Services
District of Columbia	No tax	No tax	Published Annually; Exacting	In District	In District	Money, Property

* Arizona alone requires publication of charter.

† The existence of a corporation may be made perpetual in all the states given except South Dakota, where the maximum life is 20 years, and West Virginia, where the maximum life is 50 years.

‡ Investigate relative to inheritance tax on stock, if interested.

INCOME-YIELDING CAPACITY OF STOCKS

Purchase Price	DIVIDEND RATE PER ANNUM.										
	1%	2%	3%	4%	5%	6%	7%	8%	9%	10%	12%
10	10.00	20.00	30.00	40.00	50.00	60.00	70.00	80.00	90.00	100.00	120.00
12½	8.00	16.00	24.00	32.00	40.00	48.00	56.00	64.00	72.00	80.00	96.00
15	6.67	13.33	20.00	26.67	33.33	40.00	46.67	53.33	60.00	66.67	80.00
17½	5.71	11.43	17.14	22.86	28.57	34.28	40.00	45.71	51.43	57.14	68.57
20	5.00	10.00	15.00	20.00	25.00	30.00	35.00	40.00	45.00	50.00	60.00
22½	4.44	8.89	13.33	17.78	22.22	26.67	31.11	35.56	40.00	44.44	53.33
25	4.00	8.00	12.00	16.00	20.00	24.00	28.00	32.00	36.00	40.00	48.00
27½	3.64	7.27	10.91	14.55	18.18	21.82	25.45	29.09	32.73	36.36	43.64
30	3.33	6.67	10.00	13.33	16.67	20.00	23.33	26.67	30.00	33.33	40.00
32½	3.08	6.15	9.23	12.31	15.39	18.46	21.54	24.62	27.69	30.77	36.92
35	2.86	5.71	8.57	11.43	14.29	17.14	20.00	22.86	25.71	28.57	34.29
37½	2.67	5.33	8.00	10.67	13.33	16.00	18.67	21.33	24.00	26.67	32.00
40	2.50	5.00	7.50	10.00	12.50	15.00	17.50	20.00	22.50	25.00	30.00
42½	2.35	4.70	7.06	9.41	11.76	14.12	16.47	18.82	21.18	23.53	28.23
45	2.22	4.44	6.67	8.89	11.11	13.33	15.56	17.78	20.00	22.22	26.67
47½	2.11	4.21	6.32	8.42	10.53	12.63	14.74	16.84	18.95	21.05	25.26
50	2.00	4.00	6.00	8.00	10.00	12.00	14.00	16.00	18.00	20.00	24.00
52½	1.90	3.81	5.71	7.62	9.52	11.43	13.33	15.24	17.14	19.05	22.86
55	1.82	3.63	5.45	7.27	9.09	10.91	12.72	14.55	16.36	18.18	21.82
57½	1.74	3.48	5.22	6.96	8.70	10.43	12.17	13.91	15.65	17.39	20.87
60	1.67	3.33	5.00	6.67	8.33	10.00	11.67	13.33	15.00	16.67	20.00
62½	1.60	3.20	4.80	6.40	8.00	9.60	11.20	12.80	14.40	16 00	19.20
65	1.54	3.08	4.62	6.15	7.69	9.23	10.77	12.31	13.85	15.38	18.46
67½	1.48	2.96	4.44	5.93	7.41	8.89	10.37	11.85	13.33	14.81	17.78
70	1.43	2.86	4.29	5.71	7.14	8.57	10.00	11.43	12.86	14.29	17.14
72½	1.38	2.76	4.14	5.52	6.90	8.27	9.65	11.03	12.41	13.79	16.55
75	1.33	2.67	4.00	5.33	6.67	8.00	9.33	10.67	12.00	13.33	16.00
77½	1.29	2.58	3.87	5.16	6.45	7.74	9.03	10.32	11.61	12.90	15.48
80	1.25	2.50	3.75	5.00	6.25	7.50	8.75	10.00	11.25	12.50	15.00
82½	1.21	2.42	3.64	4.85	6.06	7.27	8.48	9.70	10.91	12.12	14.54
85	1.18	2.35	3.53	4.71	5.88	7.06	8.24	9.41	10.59	11.76	14.12
87½	1.14	2.29	3.43	4.57	5.71	6.86	8.00	9.14	10.29	11.43	13.71
90	1.11	2.22	3.33	4.44	5.56	6.67	7.78	8.89	10.00	11.11	13.33
92½	1.08	2.16	3.24	4.32	5.41	6.49	7.57	8.65	9.73	10.81	12.97
95	1.05	2.11	3.16	4.21	5.26	6.32	7.37	8.42	9.47	10.53	12.63
97½	1.03	2.05	3.08	4.10	5.13	6.15	7.18	8.21	9.23	10.26	12.31
100	1.00	2.00	3.00	4.00	5.00	6.00	7.00	8.00	9.00	10.00	12.00
105	.95	1.90	2.86	3.81	4.76	5.71	6.67	7.62	8.57	9.52	11.43
110	.91	1.82	2.73	3.64	4.55	5.45	6.36	7.27	8.18	9.09	10.91
115	.87	1.74	2.61	3.48	4.35	5.22	6.09	6.96	7.83	8.70	10.43
120	.83	1.67	2.50	3.33	4.17	5.00	5.83	6.67	7.50	8.33	10.00
125	.80	1.60	2.40	3.20	4.00	4.80	5.60	6.40	7.20	8.00	9.60
130	.77	1.54	2.31	3.08	3.85	4.62	5.38	6.15	6.92	7.69	9.23
135	.74	1.48	2.22	2.96	3.70	4.44	5.19	5.93	6.67	7.41	8.89
140	.71	1.43	2.14	2.86	3.57	4.29	5.00	5.71	6.43	7.14	8.57
145	.69	1.38	2.07	2.76	3.45	4.14	4.83	5.52	6.21	6.90	8.28
150	.67	1.33	2.00	2.67	3.33	4.00	4.67	5.33	6.00	6.67	8.00
155	.65	1.29	1.94	2.58	3.23	3.87	4.52	5.16	5.81	6.45	7.74
160	.63	1.25	1.87	2.50	3.12	3.75	4.37	5.00	5.62	6.25	7.50
165	.61	1.21	1.82	2.42	3.03	3.64	4.24	4.85	5.45	6.06	7.27
170	.59	1.18	1.76	2.35	2.94	3.53	4.12	4.71	5.29	5.88	7.06
175	.57	1.14	1.71	2.29	2.86	3.43	4.00	4.57	5.14	5.71	6.85
180	.56	1.11	1.67	2.22	2.78	3.33	3.89	4.44	5.00	5.56	6.67
185	.54	1.08	1.62	2 16	2.70	3.24	3.78	4.32	4.86	5.41	6.49
190	.53	1.05	1.58	2.11	2.63	3.16	3.68	4.21	4.74	5.26	6.32
195	.51	1.03	1.54	2.05	2.56	3.08	3.59	4.10	4.62	5.13	6.15
200	.50	1.00	1.50	2.00	2.50	3.00	3.50	4.00	4.50	5.00	6.00

KEY—A six per cent. stock which sells at 85 yields 7.06 per cent. Look down the 6 per cent. column till opposite 85.

INTEREST-YIELDING CAPACITY OF BONDS

Showing the price at which a **three** per cent. bond must be bought to realize from 2 to 6 per cent. per annum.
Interest payable semi-annually.

Years to Run	2	2¼	2½	2¾	3	3¼	3½	3¾	4	4¼	4½	4¾	5	5¼	5½	6
1.....	100.99	100.74	100.49	100.24	100.00	99.76	99.51	99.27	99.03	98.79	98.55	98.31	98.07	97.84	97.60	97.13
2.....	101.95	101.46	100.97	100.48	100.00	99.52	99.04	98.57	98.10	97.63	97.16	96.70	96.24	95.78	95.33	94.42
3.....	102.90	102.16	101.44	100.72	100.00	99.29	98.59	97.89	97.20	96.51	95.83	95.16	94.49	93.83	93.17	91.87
4.....	103.83	102.85	101.89	100.94	100.00	99.07	98.15	97.24	96.34	95.45	94.56	93.69	92.83	91.98	91.13	89.47
5.....	104.74	103.53	102.34	101.16	100.00	98.85	97.72	96.61	95.51	94.42	93.35	92.29	91.25	90.22	89.20	87.20
6.....	105.63	104.19	102.77	101.37	100.00	98.65	97.32	96.00	94.71	93.44	92.19	90.96	89.74	88.55	87.37	85.07
7.....	106.50	104.83	103.19	101.58	100.00	98.45	96.92	95.42	93.95	92.50	91.08	89.68	88.31	86.96	85.64	83.06
8.....	107.36	105.46	103.61	101.78	100.00	98.25	96.54	94.86	93.21	91.60	90.02	88.46	86.95	85.45	83.99	81.16
9.....	108.20	106.08	104.01	101.98	100.00	98.06	96.17	94.32	92.50	90.73	89.00	87.30	85.65	84.03	82.44	79.37
10.....	109.02	106.68	104.40	102.17	100.00	97.88	95.81	93.79	91.82	89.90	88.03	86.20	84.41	82.67	80.97	77.68
11.....	109.83	107.27	104.78	102.36	100.00	97.70	95.47	93.29	91.17	89.11	87.10	85.14	83.23	81.38	79.57	76.09
12.....	110.62	107.85	105.16	102.54	100.00	97.53	95.13	92.81	90.54	88.34	86.21	84.13	82.12	80.15	78.25	74.60
13.....	111.40	108.41	105.52	102.72	100.00	97.37	94.81	92.34	89.94	87.61	85.36	83.17	81.05	78.99	77.00	73.18
14.....	112.16	108.96	105.88	102.89	100.00	97.21	94.50	91.89	89.36	86.91	84.54	82.25	80.04	77.89	75.81	71.85
15.....	112.90	109.50	106.22	103.06	100.00	97.05	94.20	91.46	88.80	86.24	83.77	81.38	79.07	76.84	74.69	70.60
20.....	116.42	112.03	107.83	103.83	100.00	96.34	92.85	89.51	86.32	83.27	80.35	77.57	74.90	72.34	69.90	65.33
25.....	119.60	114.28	109.25	104.50	100.00	95.74	91.71	87.90	84.29	80.87	77.62	74.55	71.64	68.87	66.25	61.41
30.....	122.48	116.30	110.51	105.08	100.00	95.23	90.76	86.56	82.62	78.92	75.44	72.17	69.09	66.20	63.47	58.49
35.....	125.08	118.10	111.62	105.60	100.00	94.80	89.96	85.45	81.25	77.34	73.69	70.28	67.10	64.13	61.35	56.81
40.....	127.44	119.71	112.60	106.04	100.00	94.43	89.28	84.53	80.13	76.06	72.29	68.79	65.55	62.54	59.73	54.70
45.....	129.58	121.15	113.46	106.43	100.00	94.11	88.71	83.76	79.21	75.02	71.17	67.61	64.33	61.30	58.50	53.50
50.....	131.51	122.44	114.23	106.77	100.00	93.84	88.23	83.12	78.45	74.18	70.27	66.68	63.39	60.35	57.56	52.60
60.....	134.85	124.63	115.49	107.33	100.00	93.42	87.50	82.16	77.32	72.95	68.98	65.36	62.07	59.06	56.30	51.44
70.....	137.58	126.37	116.49	107.75	100.00	93.11	86.97	81.49	76.56	72.14	68.15	64.54	61.26	58.28	55.56	50.80
80.....	139.82	127.77	117.26	108.07	100.00	92.89	86.60	81.02	76.05	71.61	67.62	64.02	60.77	57.82	55.14	50.44
90.....	141.66	128.88	117.86	108.31	100.00	92.73	86.34	80.71	75.71	71.26	67.27	63.70	60.47	57.55	54.89	50.24
100.....	143.16	129.78	118.33	108.50	100.00	92.61	86.16	80.49	75.48	71.03	67.06	63.49	60.29	57.38	54.75	50.14

NOTE—The tables entitled The Income-Yielding Capacity of Stocks and The Interest-Yielding Capacity of Bonds are copyrighted by The Manual of Statistics Co., New York, by whose permission they are used here.

INTEREST-YIELDING CAPACITY OF BONDS

Showing the price at which a **three and one-half** per cent. bond must be bought to realize from 2 to 6 per cent. per annum.
Interest payable semi-annually.

YEARS TO RUN	2	2¼	2½	2¾	3	3¼	3½	3¾	4	4¼	4½	4¾	5	5¼	5½	6
1.....	101.48	101.23	100.98	100.73	100.49	100.24	100.00	99.76	99.51	99.27	99.03	98.79	98.55	98.32	98.08	97.61
2.....	102.93	102.43	101.94	101.45	100.96	100.48	100.00	99.52	99.05	98.58	98.11	97.64	97.18	96.72	96.26	95.35
3.....	104.35	103.61	102.87	102.15	101.42	100.71	100.00	90.30	98.60	97.91	97.22	96.54	95.87	95.20	94.54	93.23
4.....	105.74	104.76	103.78	102.82	101.87	100.93	100.00	99.08	98.17	97.27	96.38	95.49	94.62	93.76	92.91	91.23
5....	107.10	105.88	104.67	103.48	102.31	101.15	100.00	98.87	97.75	96.65	95.57	94.49	93.44	92.39	91.36	89.34
6.....	108.44	106.98	105.54	104.12	102.73	101.35	100.00	98.67	97.36	96.06	94.79	93.54	92.31	91.09	89.90	87.56
7.....	109.75	108.05	106.39	104.75	103.14	101.55	100.00	98.47	96.97	95.50	94.05	92.63	91.23	89.86	88.51	85.88
8.....	111.04	109.10	107.21	105.35	103.53	101.75	100.00	98.29	96.61	94.96	93.34	91.76	90.21	88.69	87.20	84.30
9.....	112.30	110.13	108.01	105.94	103.92	101.94	100.00	98.11	96.25	94.44	92.67	90.93	89.23	87.58	85.95	82.81
10.....	113.53	111.14	108.80	106.52	104.29	102.12	100.00	97.93	95.91	93.94	92.02	90.14	88.31	86.52	84.77	81.40
11.....	114.75	112.12	109.57	107.08	104.66	102.30	100.00	97.76	95.59	93.46	91.40	89.39	87.43	85.52	83.66	80.08
12.....	115.93	113.08	110.31	107.62	105.01	102.47	100.00	97.60	95.27	93.01	90.81	88.67	86.59	84.56	82.60	78.83
13.....	117.10	114.02	111.04	108.15	105.35	102.63	100.00	97.45	94.97	92.57	90.24	87.98	85.79	83.66	81.60	77.65
14.....	118.24	114.94	111.75	108.67	105 68	102.79	100.00	97.30	94.68	92.15	89.70	87.32	85.03	82.80	80.65	76.54
15.....	119.36	115.84	112.44	109.17	106.00	102.95	100.00	97.15	94.40	91.74	89.18	86.70	84.30	81.99	79.75	75.50
20.....	124.63	120.04	115.66	111.48	107.48	103.66	100.00	96.50	93.16	89.96	86.90	83.98	81.17	78.49	75.92	71.11
25.....	129.40	123.80	118.51	113.49	108.75	104.26	100.00	95.97	92.14	88.52	85.08	81.82	78.73	75.79	73.00	67.84
30.....	133.72	127.16	121.02	115.25	109.85	104.77	100.00	95.52	91.31	87.35	83.63	80.12	76.82	73.71	70.78	65.41
35.....	137.62	130.17	123.23	116.79	110.79	105.20	100.00	95.15	90.63	86.40	82.46	78 77	75.33	72.10	69.08	63.60
40.....	141.16	132.85	125.19	118.13	111.60	105.57	100.00	94.84	90.06	85.63	81.53	77.71	74.16	70.86	67.79	62.25
45.....	144.36	135.26	126.92	119.29	112.30	105.89	100.00	94.59	89.60	85.01	80.78	76.87	73.25	69.90	66.80	61.25
50.....	147.26	137.41	128.45	120.31	112.91	106.16	100.00	94.37	89.23	84.51	80.18	76.20	72.54	69.16	66.05	60.50
60.....	152.27	141.04	130.98	121.98	113.88	106.58	100.00	94.05	88.66	83.77	79.32	75.26	71.55	68.15	65.04	59.53
70.....	156.37	143.95	132.97	123.24	114.60	106.88	100.00	93.83	88.28	83.28	78.77	74.67	70.95	67.55	64.45	59.00
80.....	159.73	146.28	134.52	124.20	115.13	107.11	100.00	93.67	88.03	82.96	78.41	74.30	70.58	67.19	64.11	58.70
90.....	162.48	148.14	135.73	124.94	115.53	107.27	100.00	93.57	87.85	82.75	78.18	74.07	70.35	66.98	63.91	58.54
100.....	164.74	149.63	136.67	125.49	115.82	107.38	100.00	93.50	87.74	82.62	78.04	73.92	70.22	66.85	63.80	58.45

INTEREST-YIELDING CAPACITY OF BONDS

Showing the price at which a **four** per cent. bond must be bought to realize from 2 to 6 per cent. per annum.
Interest payable semi-annually.

Years to Run.	2	2¼	2½	2¾	3	3¼	3½	3¾	4	4¼	4½	4¾	5	5¼	5½	6
1.....	101.97	101.72	101.47	101.22	100.98	100.73	100.49	100.24	100.00	99.76	99.52	99.28	99.04	98.80	98.56	98.09
2.....	103.90	103.40	102.91	102.42	101.93	101.44	100.96	100.48	100.00	99.53	99.05	98.59	98.12	97.66	97.20	96.28
3.....	105.80	105.05	104.31	103.58	102.85	102.13	101.41	100.70	100.00	99.30	98.61	97.93	97.25	96.57	95.00	94.58
4.....	107.65	106.66	105.68	104.70	103.74	102.79	101.85	100.92	100.00	99.09	98.19	97.30	96.41	95.54	94.68	92.98
5.....	109.47	108.23	107.01	105.80	104.61	103.44	102.28	101.13	100.00	98.88	97.78	96.70	95.62	94.57	93.52	91.47
6.....	111.26	109.77	108.31	106.87	105.45	104.06	102.68	101.33	100.00	98.69	97.40	96.12	94.87	93.64	92.42	90.05
7.....	113.00	111.28	109.58	107.91	106.27	104.66	103.08	101.53	100.00	98.50	97.03	95.58	94.15	92.76	91.38	88.70
8.....	114.72	112.75	110.82	108.92	107.07	105.25	103.46	101.71	100.00	98.32	96.67	95.06	93.47	91.92	90.40	87.44
9.....	116.40	114.19	112.02	109.91	107.84	105.81	103.83	101.89	100.00	98.15	96.33	94.56	92.82	91.13	89.46	86.25
10.....	118.05	115.59	113.20	110.86	108.58	106.36	104.19	102.07	100.00	97.98	96.01	94.08	92.21	90.37	88.58	85.12
11.....	119.66	116.97	114.35	111.80	109.31	106.89	104.53	102.24	100.00	97.82	95.70	93.63	91.62	89.65	87.74	84.06
12.....	121.24	118.31	115.47	112.70	110.02	107.40	104.87	102.40	100.00	97.67	95.40	93.20	91.06	88.97	86.95	83.06
13.....	122.80	119.63	116.56	113.59	110.70	107.90	105.19	102.55	100.00	97.52	95.12	92.79	90.52	88.33	86.20	82.12
14.....	124.32	120.92	117.63	114.44	111.36	108.38	105.50	102.70	100.00	97.38	94.85	92.39	90.02	87.72	85.49	81.24
15.....	125.81	122.17	118.67	115.28	112.01	108.85	105.80	102.85	100.00	97.25	94.59	92.02	89.53	87.13	84.81	80.40
20.....	132.83	128.06	123.50	119.13	114.96	110.97	107.15	103.50	100.00	96.65	93.45	90.39	87.45	84.64	81.94	76.89
25.....	139.20	133.32	127.76	122.49	117.50	112.77	108.29	104.03	100.00	96.17	92.54	89.09	85.82	82.71	79.75	74.27
30.....	144.96	138.03	131.53	125.42	119.69	114.30	109.24	104.48	100.00	95.78	91.81	88.07	84.55	81.22	78.08	72.32
35.....	150.16	142.23	134.85	127.98	121.58	115.61	110.04	104.85	100.00	95.47	91.23	87.26	83.55	80.07	76.81	70.88
40.....	154.88	146.00	137.79	130.21	123.20	116.72	110.72	105.16	100.00	95.21	90.76	86.63	82.77	79.19	75.84	69.80
45.....	159.15	149.36	140.38	132.16	124.60	117.67	111.29	105.41	100.00	95.00	90.39	86.12	82.17	78.50	75.10	69.00
50.....	163.02	152.37	142.68	133.85	125.81	118.47	111.77	105.63	100.00	94.84	90.09	85.72	81.69	77.97	74.54	68.40
60.....	169.69	157.46	146.48	136.64	127.75	119.74	112.50	105.95	100.00	94.59	89.66	85.15	81.03	77.25	73.78	67.63
70.....	175.16	161.53	149.46	138.73	129.19	120.65	113.02	106.17	100.00	94.43	89.36	84.80	80.63	76.82	73.34	67.20
80.....	179.64	164.79	151.78	140.34	130.26	121.32	113.39	106.33	100.00	94.32	89.21	84.58	80.39	76.57	73.08	66.96
90.....	183.31	167.39	153.59	141.56	131.05	121.80	113.65	106.43	100.00	94.25	89.09	84.44	80.24	76.41	72.94	66.83
100.....	186.33	169.48	154.99	142.49	131.64	122 15	113.83	106.51	100.00	94.21	89.02	84.35	80.14	76.32	72.85	66.76

INTEREST-YIELDING CAPACITY OF BONDS

Showing the price at which a **four and one-half** per cent. bond must be bought to realize from 2 to 6 per cent. per annum.
Interest payable semi-annually.

Years to Run.	2	2½	2¾	3	3¼	3½	3¾	4	4¼	4½	4¾	5	5¼	5½	5¾	6
1.....	102.46	101.96	101.71	101.47	101.22	100.97	100.73	100.49	100.24	100.00	99.76	99.52	99.28	99.04	98.80	98.56
2.....	104.88	103.88	103.38	102.89	102.40	101.92	101.43	100.95	100.47	100.00	99.53	99.06	98.59	98.13	97.67	97.21
3.....	107.24	105.75	105.01	104.27	103.55	102.82	102.11	101.40	100.70	100.00	99.31	98.62	97.94	97.27	96.60	95.94
4.....	109.56	107.57	106.59	105.61	104.65	103.70	102.76	101.83	100.91	100.00	99.10	98.21	97.33	96.45	95.59	94.74
5.....	111.84	109.35	108.12	106.92	105.73	104.55	103.39	102.25	101.12	100.00	98.90	97.81	96.74	95.68	94.63	93.60
6.....	114.07	111.08	109.62	108.18	106.76	105.37	104.00	102.64	101.31	100.00	98.71	97.44	96.18	94.95	93.73	92.53
7.....	116.25	112.77	111.07	109.41	107.77	106.16	104.58	103.03	101.50	100.00	98.53	97.08	95.65	94.25	92.88	91.53
8.....	118.40	114.42	112.49	110.60	108.74	106.93	105.14	103.39	101.68	100.00	98.35	96.74	95.15	93.60	92.07	90.58
9.....	120.50	116.03	113.87	111.75	109.69	107.66	105.68	103.75	101.85	100.00	98.19	96.41	94.68	92.98	91.31	89.68
10.....	122.56	117.60	115.21	112.88	110.60	108.38	106.21	104.09	102.02	100.00	98.03	96.10	94.22	92.39	90.59	88.84
11.....	124.58	119.13	116.51	113.97	111.48	109.07	106.71	104.41	102.18	100.00	97.88	95.81	93.79	91.83	89.91	88.05
12.....	126.55	120.62	117.78	115.02	112.34	109.73	107.19	104.73	102.33	100.00	97.73	95.53	93.38	91.30	89.27	87.30
13.....	128.49	122.08	119.02	116.05	113.17	110.37	107.66	105.03	102.48	100.00	97.60	95.26	93.00	90.80	88.66	86.59
14.....	130.40	123.50	120.22	117.05	113.97	110.99	108.11	105.32	102.62	100.00	97.46	95.01	92.63	90.32	88.09	85.93
15.....	132.26	124.89	121.39	118.01	114.75	111.59	108.54	105.60	102.75	100.00	97.34	94.77	92.28	89.88	87.55	85.30
20.....	141.04	131.33	126.78	122.44	118.28	114.30	110.49	106.84	103.35	100.00	96.80	93.72	90.78	87.96	85.26	82.66
25.....	149.00	137.01	131.49	126.25	121.28	116.57	112.10	107.86	103.83	100.00	96.36	92.91	89.62	86.50	83.53	80.70
30.....	156.19	142.03	135.59	129.54	123.84	118.48	113.44	108.69	104.22	100.00	96.02	92.27	88.73	85.39	82.23	79.24
35.....	162.70	146.47	139.17	132.37	126.02	120.09	114.55	109.37	104.53	100.00	95.75	91.78	88.04	84.54	81.25	78.16
40.....	168.60	150.39	142.29	134.81	127.87	121.44	115.47	109.94	104.79	100.00	95.54	91.39	87.51	83.89	80.51	77.35
45.....	173.94	153.85	145.02	136.91	129.45	122.58	116.24	110.40	105.00	100.00	95.37	91.08	87.10	83.40	79.96	76.75
50.....	178.79	156.90	147.40	138.72	130.79	123.53	116.88	110.77	105.16	100.00	95.24	90.85	86.78	83.02	79.54	76.30
60.....	187.12	161.98	151.28	141.63	132.89	125.00	117.84	111.34	105.41	100.00	95.05	90.52	86.35	82.52	78.99	75.72
70.....	193.95	165.95	154.23	143.79	134.42	126.05	118.51	111.72	105.57	100.00	94.93	90.32	86.09	82.23	78.67	75.40
80.....	199.55	169.04	156.48	145.39	135.53	126.79	118.98	111.97	105.68	100.00	94.86	90.19	85.94	82.06	78.49	75.22
90.....	204.14	171.45	158.19	146.58	136.35	127.31	119.29	112.15	105.75	100.00	94.81	90.12	85.85	81.96	78.39	75.12
100.....	207.90	173.33	159.50	147.46	136.92	127.68	119.51	112.26	105.79	100.00	94.78	90.07	85.79	81.90	78.34	75.07

INTEREST-YIELDING CAPACITY OF BONDS

Showing the price at which a five per cent. bond must be bought to realize from 3 to 7 per cent. per annum. Interest payable semi-annually.

Years to Run.	3	3¼	3½	3¾	4	4¼	4½	4¾	5	5¼	5½	5¾	6	6¼	6½	7
1	101.96	101.71	101.46	101.22	100.97	100.73	100.48	100.24	100.00	99.76	99.52	99.28	99.04	98.81	98.57	98.10
2	103.85	103.36	102.87	102.39	101.90	101.42	100.95	100.47	100.00	99.53	99.07	98.60	98.14	97.68	97.23	96.33
3	105.70	104.96	104.24	103.52	102.80	102.09	101.39	100.69	100.00	99.31	98.63	97.96	97.29	96.63	95.97	94.67
4	107.49	106.51	105.55	104.60	103.66	102.73	101.81	100.90	100.00	99.11	98.23	97.35	96.49	95.64	94.79	93.13
5	109.22	108.02	106.83	105.65	104.49	103.35	102.22	101.10	100.00	98.91	97.84	96.78	95.73	94.70	93.68	91.68
6	110.91	109.47	108.05	106.66	105.29	103.94	102.60	101.29	100.00	98.73	97.47	96.24	95.02	93.82	92.64	90.34
7	112.54	110.88	109.24	107.63	106.05	104.50	102.97	101.47	100.00	98.55	97.13	95.73	94.35	93.00	91.67	89.08
8	114.13	112.24	110.39	108.57	106.79	105.04	103.33	101.65	100.00	98.38	96.80	95.24	93.72	92.22	90.76	87.91
9	115.67	113.56	111.50	109.47	107.50	105.56	103.67	101.81	100.00	98.23	96.49	94.79	93.12	91.49	89.90	86.81
10	117.17	114.84	112.56	110.34	108.18	106.06	103.99	101.97	100.00	98.07	96.19	94.36	92.56	90.81	89.10	85.79
11	118.62	116.08	113.60	111.18	108.83	106.54	104.30	102.12	100.00	97.93	95.91	93.95	92.03	90.16	88.34	84.83
12	120.03	117.27	114.60	111.99	109.46	106.99	104.60	102.27	100.00	97.79	95.65	93.56	91.53	89.56	87.63	83.94
13	121.40	118.43	115.56	112.77	110.06	107.43	104.88	102.40	100.00	97.67	95.40	93.20	91.06	88.99	86.97	83.11
14	122.73	119.56	116.49	113.52	110.64	107.85	105.15	102.54	100.00	97.54	95.16	92.85	90.62	88.45	86.13	82.33
15	124.02	120.65	117.39	114.24	111.20	108.26	105.41	102.66	100.00	97.43	94.94	92.53	90.20	87.95	85.76	81.61
20	129.92	125.59	121.45	117.48	113.68	110.04	106.55	103.20	100.00	96.93	93.98	91.15	88.44	85.84	83.34	78.64
25	135.00	129.80	124.86	120.17	115.71	111.48	107.46	103.64	100.00	96.54	93.25	90.12	87.14	84.29	81.59	76.54
30	139.38	133.38	127.72	122.40	117.38	112.65	108.19	103.98	100.00	96.24	92.69	89.34	86.16	83.16	80.31	75.06
35	143.15	136.42	130.13	124.25	118.75	113.60	108.77	104.25	100.00	96.01	92.27	88.75	85.44	82.32	79.38	74.00
40	146.41	139.02	132.16	125.79	119.87	114.37	109.24	104.46	100.00	95.84	91.95	88.31	84.90	81.71	78.71	73.25
45	149.21	141.22	133.86	127.07	120.79	114.99	109.61	104.63	100.00	95.70	91.70	87.97	84.50	81.25	78.22	72.72
50	151.62	143.10	135.30	128.13	121.55	115.49	109.91	104.76	100.00	95.59	91.51	87.72	84.20	80.92	77.87	72.34
60	155.50	146.07	137.51	129.75	122.68	116.23	110.34	104.95	100.00	95.45	91.26	87.39	83.81	80.50	77.42	71.89
70	158.37	148.21	139.08	130.85	123.44	116.72	110.62	105.07	100.00	95.36	91.11	87.20	83.60	80.27	77.19	71.66
80	160.51	149.76	140.19	131.62	123.95	117.04	110.80	105.14	100.00	95.31	91.03	87.10	83.48	80.15	77.06	71.54
90	162.10	150.89	140.97	132.15	124.29	117.25	110.91	105.19	100.00	95.28	90.98	87.04	83.41	80.08	77.00	71.49
100	163.27	151.71	141.52	132.52	124.52	117.38	110.98	105.22	100.00	95.26	90.95	87.00	83.38	80.04	76.96	71.46

INTEREST-YIELDING CAPACITY OF BONDS

Showing the price at which a **six** per cent. bond must be bought to realize from 3 to 7 per cent. per annum.
Interest payable semi-annually.

YEARS TO RUN	3	3¼	3½	3¾	4	4¼	4½	4¾	5	5¼	5½	5¾	6	6¼	6½	7
1.....	102.93	102.68	102.44	102.19	101.94	101.70	101.45	101.21	100.96	100.72	100.48	100.24	100.00	99.76	99.52	99.05
2.....	105.78	105.28	104.79	104.30	103.81	103.32	102.84	102.36	101.88	101.41	100.93	100.47	100.00	99.54	99.08	98.16
3.....	108.55	107.80	107.06	106.33	105.60	104.88	104.17	103.46	102.75	102.06	101.37	100.68	100.00	99.33	98.66	97.34
4.....	111.23	110.24	109.26	108.29	107.33	106.38	105.44	104.51	103.59	102.67	101.77	100.88	100.00	99.13	98.26	96.56
5.....	113.83	112.60	111.38	110.17	108.98	107.81	106.65	105.51	104.38	103.26	102.16	101.07	100.00	98.94	97.89	95.84
6.....	116.36	114.88	113.42	111.99	110.58	109.18	107.81	106.46	105.13	103.82	102.53	101.25	100.00	98.76	97.55	95.17
7.....	118.82	117.09	115.40	113.74	112.11	110.50	108.92	107.37	105.85	104.35	102.87	101.42	100.00	98.60	97.22	94.54
8.....	121.20	119.24	117.31	115.43	113.58	111.76	109.98	108.24	106.53	104.85	103.20	101.59	100.00	98.44	96.92	93.95
9.....	123.51	121.31	119.16	117.05	114.99	112.97	111.00	109.07	107.18	105.32	103.51	101.74	100.00	98.30	96.63	93.41
10.....	125.75	123.32	120.94	118.62	116.35	114.14	111.97	109.86	107.79	105.78	103.81	101.88	100.00	98.16	96.37	92.89
11.....	127.93	125.26	122.68	120.13	117.66	115.25	112.90	110.61	108.38	106.21	104.09	102.02	100.00	98.03	96.11	92.42
12.....	130.05	127.15	124.33	121.58	118.91	116.32	113.79	111.33	108.94	106.62	104.35	102.15	100.00	97.91	95.88	91.97
13.....	132.10	128.97	125.93	122.98	120.12	117.34	114.64	112.02	109.48	107.00	104.60	102.27	100.00	97.80	95.66	91.55
14.....	134.09	130.73	127.48	124.33	121.28	118.32	115.46	112.68	109.98	107.37	104.84	102.38	100.00	97.69	95.45	91.17
15.....	136.02	132.44	128.98	125.63	122.40	119.26	116.23	113.30	110.47	107.72	105.06	102.49	100.00	97.59	95.25	90.80
16.....	137.90	134.10	130.43	126.89	123.47	120.17	116.98	113.90	110.92	108.05	105.28	102.59	100.00	97.49	95.07	90.47
17.....	139.72	135.70	131.83	128.10	124.50	121.03	117.69	114.47	111.36	108.37	105.48	102.69	100.00	97.41	94.90	90.15
18.....	141.49	137.25	133.18	129.26	125.49	121.86	118.37	115.01	111.78	108.67	105.67	102.78	100.00	97.32	94.74	89.85
19.....	143.21	138.76	134.48	130.38	126.44	122.66	119.02	115.53	112.17	108.95	105.85	102.87	100.00	97.24	94.59	89.58
20.....	144.87	140.21	135.74	131.46	127.36	123.42	119.65	116.02	112.55	109.22	106.02	102.95	100.00	97.17	94.45	89.32
25.....	152.50	146.82	141.43	136.30	131.42	126.79	122.38	118.18	114.18	110.38	106.75	103.29	100.00	96.86	93.86	88.27
30.....	159.07	152.45	146.20	140.32	134.76	129.52	124.56	119.88	115.45	111.27	107.31	103.55	100.00	96.63	93.44	87.53
35.....	164.73	157.24	150.22	143.65	137.50	131.73	126.31	121.23	116.45	111.96	107.73	103.75	100.00	96.46	93.13	87.00
40.....	169.61	161.31	153.60	146.42	139.74	133.52	127.71	122.29	117.23	112.49	108.05	103.90	100.00	96.34	92.90	86.63
45.....	173.81	164.78	156.44	148.73	141.59	134.97	128.83	123.13	117.83	112.90	108.30	104.01	100.00	96.25	92.74	86.36
50.....	177.44	167.73	158.83	150.64	143.10	136.15	129.73	123.80	118.31	113.22	108.49	104.09	100.00	96.18	92.62	86.17

INTEREST-YIELDING CAPACITY OF BONDS

Showing the price at which a **seven** per cent. bond must be bought to realize from 3 to 7 per cent. per annum.
Interest payable semi-annually.

Years to Run.	3	3¼	3½	3¾	4	4¼	4½	4¾	5	5¼	5½	5¾	6	6¼	6½	7
1......	103.91	103.66	103.41	103.16	102.91	102.66	102.42	102.17	101.93	101.68	101.44	101.20	100.96	100.72	100.48	100.00
2......	107.71	107.20	106.70	106.21	105.71	105.22	104.73	104.25	103.76	103.28	102.80	102.33	101.86	101.39	100.92	100.00
3......	111.39	110.64	109.89	109.14	108.40	107.67	106.94	106.22	105.51	104.80	104.10	103.40	102.71	102.02	101.34	100.00
4......	114.97	113.96	112.96	111.97	110.99	110.02	109.06	108.11	107.17	106.24	105.32	104.41	103.51	102.62	101.74	100.00
5......	118.44	117.18	115.93	114.69	113.47	112.27	111.08	109.91	108.75	107.61	106.48	105.37	104.27	103.18	102.11	100.00
6......	121.82	120.29	118.79	117.32	115.86	114.43	113.02	111.63	110.26	108.91	107.58	106.27	104.98	103.71	102.45	100.00
7......	125.09	123.31	121.56	119.85	118.16	116.50	114.87	113.27	111.69	110.14	108.62	107.12	105.65	104.20	102.78	100.00
8......	128.26	126.23	124.24	122.28	120.37	118.49	116.64	114.83	113.05	111.31	109.60	107.93	106.28	104.67	103.08	100.00
9......	131.35	129.06	126.82	124.63	122.49	120.39	118.33	116.32	114.35	112.42	110.54	108.69	106.88	105.10	103.37	100.00
10......	134.34	131.80	129.32	126.89	124.53	122.21	119.95	117.75	115.59	113.48	111.42	109.41	107.44	105.52	103.63	100.00
11......	137.24	134.45	131.73	129.07	126.49	123.96	121.50	119.11	116.77	114.48	112.26	110.09	107.97	105.90	103.89	100.00
12......	140.06	137.02	134.06	131.17	128.37	125.64	122.99	120.40	117.88	115.44	113.05	110.73	108.47	106.27	104.12	100.00
13.. ..	142.80	139.50	136.31	133.20	130.18	127.25	124.40	121.64	118.95	116.34	113.80	111.34	108.94	106.61	104.34	100.00
14......	145.45	141.91	138.48	135.15	131.92	128.79	125.76	122.82	119.96	117.20	114.51	111.91	109.38	106.93	104.55	100.00
15......	148.03	144.24	140.58	137.03	133.59	130.27	127.06	123.94	120.93	118.01	115.19	112.45	109.80	107.23	104.75	100.00
16......	150.53	146.50	142.60	138.84	135.20	131.69	128.30	125.02	121.85	118.79	115.83	112.96	110.19	107.52	104.93	100.00
17	152.96	148.68	144.56	140.58	136.75	133.05	129.48	126.04	122.72	119.52	116.43	113.45	110.57	107.78	105.10	100.00
18......	155.32	150.80	146.45	142.26	138.23	134.35	130.62	127.02	123.56	120.22	117.00	113.90	110.92	108.04	105.26	100.00
19	157.61	152.85	148.28	143.88	139.66	135.60	131.70	127.95	124.35	120.88	117.54	114.34	111.25	108.27	105.41	100.00
20......	159.83	154.83	150.04	145.44	141.03	136.80	132.74	128.84	125.10	121.51	118.06	114.74	111.56	108.50	105.55	100.00
25......	170.00	163.85	158.00	152.43	147.14	142.09	137.29	132.72	128.36	124.21	120.25	116.47	112.86	109.42	106.14	100.00
30......	178.76	171.52	164.69	158.24	152.14	146.38	140.94	135.78	130.91	126.29	121.92	117.77	113.84	110.11	106.56	100.00
35......	186.31	178.05	170.31	163.06	156.25	149.86	143.85	138.21	132.90	127.90	123.19	118.75	114.56	110.61	106.87	100.00
40......	192.81	183.61	175.04	167.06	159.62	152.67	146.19	140.12	134.45	129.14	124.16	119.49	115.10	110.98	107.10	100.00
45......	198.42	188.34	179.02	170.38	162.38	154.95	148.06	141.64	135.67	130.10	124.90	120.04	115.50	111.25	107.26	100.00
50......	203.25	192.37	182.36	173.14	164.65	156.80	149.55	142.84	136.61	130.84	125.46	120.46	115.80	111.45	107.38	100.00

NOTE.—The formula used by Mr. Montgomery Rollins, of Boston, to give the market value of a bond paying interest semi-annually is as follows, *i* representing one-half of the interest at bond rate:

$$\frac{i}{r} - \left\{ \frac{\frac{i}{r} - 100}{(1 + r)^n} \right.$$

Another formula, prepared by Mr. William R. Blair, of Oshkosh, Wisconsin, is this:

Let *n* equal the number of interest payments the bond promises, *r* the real or market rate of interest, and *d* the difference between a single interest payment of the bond and the interest on its face value at market rate. This difference, recurring periodically, becomes an annuity of which the present worth is

$$\frac{d\,[(1 + r)^n - 1]}{(1 + r)^n r}$$

The numerical value of this quantity may be found by the use of logarithms, and is the premium of the bond when the bond rate exceeds the market rate, or the discount when the bond rate is less than the market rate. "Bond Values," published by Montgomery Rollins & Co., Boston, contains extensive tables showing the net return from bonds, stocks and other investments, at various maturities, interest or dividend returns, and prices.

LIBRARY OF THE UNIVERSITY OF CALIFORNIA

$$\frac{1 - \frac{1}{(1+i)^n}}{i} + \frac{100}{(1+i)^n}$$

INDEX.

[*References are to pages.*]

A

ABANDONMENT,
  dissolution by abandoning corporate purpose, 186.

ACCOUNTANT,
  bookkeeping, duties connected with, 145–152.
  explanation of difficult questions presented, 150–168.
  licensed by state, 146.
  statement interpreted by, 157–167.

AGENCY,
  promoter does not represent corporation, 20.
  promoter's authority from incorporators, 20.

AGENT,
  appointment and removal by directors, 96.
  de facto powers of acting agent, 98.
  doing business without establishing agency, 28–31.
  proxy at stockholders' meeting, 138.
  resident agent required when, 27.

AMENDMENTS,
  acceptance by unanimous vote of stockholders, 79.
  charter and articles, 79–81.
  meeting for consideration of, 81.

AMERICAN BANKERS' ASSOCIATION,
  standard form of corporate statement, 264.

ANNUAL MEETING,
  stockholders' meetings, 136–139.

ARIZONA,
  advantages and disadvantages of corporation laws, 23.

[References are to pages.]

ARTICLES OF ASSOCIATION,
- amendment, 79–81.
- by-laws, effect upon articles, 83.
- consolidation involves filing of, 188.
- definition and purpose, 75, 76.
- directors named by, 96.
- dividend payments controlled by, 65.
- filing begins existence of corporation, 82.
- Indiana form, 205.
- irregularities defeating incorporation, 82.
- of United States Steel Corporation, copy, 207.
- purpose of corporation, statement, 76, 199.
- reorganization to change, 188.
- under New Jersey act for "associations not for pecuniary profit," form, 204.
- under New York law, form, 203.

ASSESSMENTS,
- definition and effects, 70, 71.
- reorganization to meet necessity for, 189.

ASSIGNMENT,
- entering in books of company, 172–176.

ASSIGNMENT AND TRANSFER,
- form on certificate, 233.

ATTORNEY,

See COUNSEL.
- proxy at stockholders' meetings, 138.

AUDITING,
- explanation of questions presented, 150–168.

AUDITOR,
- bookkeeping, duties connected with, 144, 152.
- duties to stockholders, 147, 148.
- powers and duties, 105.

B

BALLOT,
- election of directors, 137, 138.

BANK,

See FINANCIAL BANKING; COMMERCIAL BANKING.
- capital increased by borrowing from, 34.
- commercial distinguished from financial banking, 50.

[*References are to pages.*]

BANK—*Continued.*
  congress charters national banks, 3.
  law governing corporations, 2.
  statement by corporation to obtain loan, 166.
  underwriting corporation securities, 46.

BANKERS,
  fiscal agents in placing stocks and bonds, 45.

BENEVOLENT ASSOCIATIONS,
  classification of corporations, 2.

BETTERMENTS,
  bookkeeping charges for, 154.

BIBLIOGRAPHY,
  books of corporate concern, 311.

BILLS AND NOTES,
  indorsement by treasurer, 103.
  president executes when, 100.

BONDHOLDERS,
  voting at stockholders' meetings, 137.

BONDS,
  assignment and indorsement, 125.
  assumed bonds defined, 127.
  blanket mortgage bonds defined, 126.
  capital obtained by issue of, 39–44.
  car trust bonds defined, 127.
  classification and nature, 125–130.
  collateral trust bonds defined, 126.
  contract determines value, 128.
  conversion of stock into bonds, 117.
  convertible bonds defined, 130.
  coupon bonds defined, 129.
  debenture bonds defined, 127.
  definition and description, 39–44.
  directors may issue, 95.
  divisional bonds defined, 126.
  effect of issue on value of stock, 41.
  element in capital of company, 33–39.
  equipment bonds defined, 126.
  first mortgage gold, form, 233.
  gold bonds defined, 129.
  holders allowed to vote when, 26.

[References are to pages.]

BONDS—*Continued.*
  holders are creditors of corporation, 40, 43.
  income bonds defined, 127.
  income gold, form, 237.
  indemnity, for reissue of lost stock certificate, form, 252.
  interest coupons matured before issue of bonds, 64.
  interest distinguished from dividends on stock, 42.
  interest-yielding capacity of, 321, 328.
  joint bonds defined, 128.
  legal tender bonds defined, 129.
  listing in stock exchange, 59.
  mortgage bonds, 126.
  mortgage, origin of, 283.
  participating bond defined, 128.
  placing by promoters and agents, 45, 49.
  price with reference to time of issue, 62–65.
  prior lien bonds defined, 128.
  procedure for issuing, form, 250.
  purchased by stockholders, 41.
  redeemable bonds defined, 130.
  refunding bonds defined, 128.
  registered bonds defined, 129.
  security for payment of, 125.
  sinking fund for redemption, 43.
  sinking fund, form, 235.
  stock distinguished from, 40, 41.
  underlying bonds defined, 128.
  value determined by stock exchange, 61, 62.

BONUS,
  promoter cannot receive, 18.
  shares issued without full consideration, 111, 112.

BOOKKEEPING,
  accountant distinguished from clerk, 143.
  accountant, rank and qualification, 145–152.
  auditor's rank and qualifications, 144–152.
  bookkeeper's qualifications and duties, 144.
  books of corporation, 167–182.
  depreciation and renewals, 152, 153.
  improvements, costs charged how, 154.
  questions presented in auditing, 150–168.
  railroad improvements, how charged, 153–156.
  statement interpreted by accountant, 157–167.

[*References are to pages.*]

BOOKS,
See BOOKKEEPING.
- corporation calendar, 179–181.
- dividend book, 176.
- foreign corporation, law concerning, 182.
- instalment and instalment scrip books, 178, 179.
- keeping in home state, 28.
- list of books required, 167, 168.
- minute book, 168–171.
- secretary keeps, 102.
- statutes requiring certain kinds, 181, 182.
- stock certificate book, 172–174.
- stockholders' ledger, 171, 172.
- stockholders may examine, 133.
- subscription book, 176–178.
- transfer book, 174–176.
- treasurer's duty to keep, 103.

BROKERS,
- fiscal agents in placing stocks and bonds, 45.
- note, sale of commercial paper by, 267.

BUILDING ASSOCIATIONS,
- law governing corporations, 2.

BUSINESS,
- changing to corporation, 65–67.
- what constitutes doing business by foreign corporation, 28–31.

BUSINESS CORPORATION,
- capital stock necessary, 110.
- classification of, 2.

BY-LAWS,
- amendment, 85, 86.
- definition and effect, 82–86.
- directors adopt when, 84.
- directors' meeting should be provided for, 98.
- forfeiture of stock pursuant to, 86.
- individual liability resulting from violation, 86.
- manager's powers and duties declared by, 104.
- penalties for violation, 86.
- powers and duties of committees, 105.
- powers of officers and directors declared, 77.
- presumption that members assented to, 84.
- rules of order declared by, 87.

[*References are to pages.*]

BY-LAWS—*Continued.*
  simple form, 213.
  special meetings of directors provided for, 99.
  special stockholders' meeting provided for, 139.
  treasurer's powers and duties declared by, 103.
  United States Steel Corporation, copy, 217.

C

CALLS,
  definition, 71.

CALENDAR,
  character and contents, 179-181.

CANCELLATION,
  certificates pasted in book, 173.

CAPITAL,
  distinguished from stock, 109.
  profits and gains are part of, until distributed, 110.

CAPITALIZATION,
  bonds as an element of, 39-44.
  definition, 31, 32.
  determining amount of, 32-39.
  earning value as element of, 36.
  fees and taxes reduced by low capitalization, 44.
  loans as an aid to, 33.
  over-capitalization and under-capitalization defined, 37.
  value of property not equaled by, 44.

CAPITAL STOCK,
  See STOCK.

CERTIFICATE OF ELECTION,
  inspectors', form, 248.

CERTIFICATES OF STOCK,
  See STOCK CERTIFICATES.
  common form, 229.
  common form, containing notice and terms of preferred issue, 230.
  founders' shares, form, 232.
  preferred issue, 230.
  standard oil form, 232.

[*References are to pages.*]

CHANGE OF NAME,
  manner of effecting, 80, 81.

CHARTER,
  See FORMATION.
  advantages and disadvantages of different corporation laws, 23–27.
  advantages of incorporation, 5.
  amendment, 79–81.
  congress has power to issue, 3.
  consolidation by taking out new charter, 187.
  corporation created by, 1.
  definition and purpose, 75, 76.
  dissolution on expiration or revocation of, 185.
  forfeiture by non-user, 82.
  general rules provided by, 77.
  incorporation in more than one state, 3.
  renewal effected how, 190.
  repeal by states, 79.
  special acts of incorporation, 4.
  where to incorporate, 22.

CHARTS,
  organization, 314, 315.

CHECKS,
  indorsement by treasurer, 103.
  president executes when, 101.

CITIZEN,
  corporation is, 1.

CLERK,
  distinguished from accountant, 143.

COLLATERAL,
  stock used as security, 6.

COMITY,
  foreign corporation recognized when, 28–31.

COMMERCIAL BANKING,
  function of, 34, 50.

COMMERCIAL CORPORATIONS,
  See BUSINESS CORPORATIONS.

[*References are to pages.*]

COMMERCIAL EVIDENCES OF CORPORATE EXISTENCE,
  origin of, 283.

COMMERCIAL PAPER,
  sale of through brokers, 267.

COMMITTEES,
  powers and duties, 105, 106.

COMMISSIONS,
  placing stocks and bonds, 45.
  promoter cannot make secret profit, 18.
  sale of stocks and bonds through bankers, 48.

COMMON STOCK,
  bonds of corporation compared with, 40, 41.
  certificate and stub, form, 229, 230.

FRANCHISE TAX,
  statutes for organizing corporations, 23–27.

FRAUD,
  aiding and abetting fraud of promotor, 22.
  auditor's duty in discovering, 147–149.
  directors personally liable when, 95.
  promoter selling to corporation, 18.
  registrar's liability for attesting or countersigning certificates, 122.

GENERAL MANAGER,
  See MANAGER.

GOOD WILL,
  advantages of incorporation, 7.
  incorporation of established business, 67.

GUARANTEED STOCK,
  definition, 113.
  dividends payable from surplus earnings, 63.
  voting at stockholders' meetings, 137.

COMPANY,
  corporation defined, 1.

COMPETITION,
  capitalization below value to prevent, 44.
  unintelligent, 289.

CONGRESS,
  charters, may grant, 3.

[References are to pages.]

CONNECTICUT,
  advantages and disadvantages of corporation laws, 23.

CONSOLIDATED CORPORATIONS,
  listing of securities in stock exchange, 60.
  organization of trusts, 50, 59.

CONSOLIDATION,
  law concerning, 187–189.
  resolution of, form, 253.

CONTRACTS,
  consolidated corporation liable on, 187.
  dissolution of corporation does not release, 187.
  president executes when, 101.
  promoter's, form, 193.
  promoter may bind corporation when, 21.
  re-organization of corporation, liability upon, 189.
  secretary's power to make, 102.
  ultra vires, effect of, 78.

CONVERTIBLE STOCK,
  definition, 117.

CONVEYANCE,
  inherent power of corporation, 77.

CONVICTION,
  removal of director guilty of felony, 94.

CORPORATE WEALTH,
  distribution of, 281.

CORPORATION,
  See CHARTERS.
  advantages of incorporation, 5.
  beginning of existence, 82.
  bookkeeping, auditing, and accounting, 143–182.
  chartered by more than one state, 3.
  classification of, 2.
  definition, advantages, and legal status, 1–9.
  distinguished from joint stock company, 4.
  formation and organization, 13–71.
  irregularities defeating incorporation, 82.
  magnitude of, 278.
  theories of duty of state, 7.
  where to incorporate, 22.

[References are to pages.]

CORPORATION CALENDAR,
  character and contents, 179, 181.

COUNSEL,
  powers and duties of, 104, 105.

COUPONS,
  definition with relation to bonds, 129.

COURTS,
  advantages of foreign corporations in, 299.

CREDITORS,
  duty of state to protect corporation creditors, 8.

CREDIT,
  capital increased by use of, 33–34.
  corporate, 262.
  statement by corporation to obtain, 166.

CUMULATIVE VOTING,
  stockholders' meetings, 138.

D

DEBENTURE,
  bonds of corporation, 127.

DEBT,
  bonds of corporation constitute, 40–44.
  consolidated corporation liable for, 187.
  directors may incur, 94.
  re-organization, liability of corporation created by, 189.
  stockholder's liability for, 134.

DEEDS,
  president executes when, 101.

DE FACTO OFFICER,
  permitting action by unauthorized person, effect, 98.

DEFERRED STOCK,
  definition, 117.

DEFINITIONS,
  bonds of corporation defined and described, 39–44.
  by-laws defined and described, 82–86.
  capitalization defined, 31, 32.
  common stock defined, 113.
  convertible stock defined, 117.

[*References are to pages.*]

DEFINITIONS—*Continued.*
- corporation defined, 1.
- deferred stock defined, 117.
- founder's shares defined, 117.
- guaranteed stock defined, 116.
- outstanding stock defined, 118.
- over-issued stock defined, 119.
- preferred stock defined, 113, 116.
- promoter defined, 15.
- securities defined, 50.
- special stock defined, 117.
- treasury stock defined, 119.
- underwriting of stocks and bonds, 46.
- unissued stock defined, 118.

DELAWARE,
- advantages and disadvantages of corporation laws, 24.

DEPRECIATION,
- charged for in corporate bookkeeping, 152.

DIRECTORS,

See OFFICERS.
- agents appointed by, 96.
- agent for corporation, 92.
- articles of association naming, 96.
- auditing books of officers, 105.
- auditor's duty to influence action, 147, 148.
- business of corporation transacted by, 94.
- by-laws adopted by, 84.
- by-laws violated may result in personal liability, 86.
- classification as to term, 92.
- consolidation, agreement for, 188.
- cumulative voting for election of, 26.
- de facto powers of acting director, 98.
- discretion as to books kept, 168, 181.
- election by ballot, 137, 138.
- election by the stockholders, 96.
- incorporation of established business, 66.
- liability for acts of officers, 95.
- liability for torts of corporation, 95.
- liability for ultra vires acts, 95.
- meetings, duties of secretary, 102.
- meetings, time, place and manner of conducting, 98, 99.
- minority representation, 138.

[References are to pages.]

DIRECTORS—*Continued.*
- notice of election, form, 249.
- notice of meeting, 98.
- number and selection of, 91–98.
- officers, election and removal of, 96.
- order of business at meetings, 99.
- powers of, 92–98.
- president presides at meetings of, 100.
- promoter forming corporation, duty, 17.
- qualifications of, 91, 92.
- ratification of acts on behalf of corporation, 95.
- removal from office, 93.
- re-organization, procedure, 190.
- resident director of corporation, 27.
- statutes as to holding meetings, 23–27.
- stockholders, must be, 92.

DIRECTORS' REGULAR MEETING,
- amendment of charter or articles, 81.
- calendar recording date of, 179–181.
- certificate of officers, 169.
- minute book should record, 168, 169.
- minutes corrected and approved, 170.
- notice of, form, 249.
- objections entered in minutes, 170.
- waiver of notice, form, 250.

DIRECTORS' SPECIAL MEETING,
- notice of, form, 249.

DISCRETION,
- dividends on preferred stock refused when, 115.

DISSOLUTION,
- corporation may dissolve by action of stockholders, 77.
- directors may not order, 95.
- law concerning, 185–187.
- preferred stockholder's rights, 114.
- reorganization as new corporation, 80.
- stockholders may consent to, 186.
- stockholder's share assets, 133.

DISTRICT OF COLUMBIA,
- advantages and disadvantages of corporation laws, 24.

[*References are to pages.*]

DIVIDENDS,
  calendar recording date for payment, 179–181.
  credits to account of, 152.
  cumulative dividends paid when, 115.
  discretion as to payment on preferred stock, 115.
  distinguished from interest, 42.
  distributive share of surplus earnings, 63.
  notice of, form, 250.
  payment as affecting price of stock, 41.
  payment upon issue of stock, 63.
  preferred stockholder's rights, 113, 114.
  price of stock with reference to payment of, 62–65.
  sentence granting pro rata dividends to preferred stock, form, 232.

DIVIDEND BOOK,
  character and contents, 176.

DOMESTIC CORPORATION,
  non-residence of, 27–28.

DRAFTS,
  president executes when, 101.

E

EARNINGS,
  capitalization fixed on basis of, 34–35.
  dividends payable to stockholders, 63.

ELECTION,
  stockholders' meetings, 137, 138.

EMPLOYES,
  stockholder's liability to, 134.
  essentials of instrument, forms, 199 *et seq.*

ESTOPPEL,
  assignment in blank, effect of, 124, 125.
  preferred shares reciting conditions estopped the holder, 116.
  ultra vires defense excluded when, 78.

EXPENSES,
  depreciation and renewals distinguished from, 153.
  railroads, bookkeeping charges for, 153–156.

EXPERTS,
  bookkeeping and accounting, 144–152.

[*References are to pages.*]

F

FEDERAL COURTS,
  corporations of district of Columbia cannot sue in, 24.

FEES,
  consolidation, filing articles of, 188.
  foreign corporation required to pay, 30–31.

FELONY,
  removal of director upon conviction, 93, 94.

FIDUCIARY,
  promoter's relation to corporation, 17.

FINANCE,
  auditing and accounting, 150–168.

FINANCIAL BANKING,
  explanation of purpose and methods, 50, 59.

FINANCIAL CORPORATION,
  law governing in foreign state, 2.

FOREIGN CORPORATIONS,
  advantages in courts, 299.
  books required by law, 182.
  consolidation of domestic corporation with, 187.
  control by state where corporation was created, 27.
  doing business, what constitutes, 28–31.
  law governing, 2.
  pre-requisites to doing business, 28–31.
  relation to state, 28–31.

FORFEITURE,
  by-laws, effect on right of, 86.
  charter forfeited by non-user, 82.
  dissolution by forfeiting charter, 185.
  subscription to stock forfeited when, 69, 70.
  ultra vires act as cause for, 78.

FORMATION,
  See CHARTER.
  advantages and disadvantages of different jurisdictions, 23–27.
  beginning of existence of corporation, 82.
  charter necessary, 75.
  control over domestic corporation with principal office in another state, 27.

[*References are to pages.*]

FORMATION—*Continued.*
  filing articles of association, effect, 75, 76.
  fortuitous association of individuals, 14.
  manner of effecting corporate formation, 14–22.
  partnership or individual business changed to corporation, 65–67.
  placing stocks and bonds, 45–49.
  promoters forming corporations, 15–22.
  promoter's liability upon failure to organize, 19.
  purposes for which a corporation is formed, 76.
  valuation of property exchanged for stock, 68, 69.
  where to incorporate, 22.
  who may incorporate, 14.

FORMULÆ,
  for determining bond values, 328.

FOUNDER'S SHARES,
  definition, 117.
  form of certificate, 232.

FRANCHISE,
  See PUBLIC UTILITY CORPORATIONS.
  element of corporation capital, 36.
  definition, 116.

H

HOLDING COMPANIES, 258.

HOLIDAYS,
  calendar recording date of, 179–181.

I

IMPROVEMENTS,
  bookkeeping charges for, 154.

INCOME,
  questions presented in auditing, 151–168.

INCORPORATION,
  See FORMATION.
  advantages of, 5.
  fees, tables of, 316, 317.
  in several states, 3.
  special acts of, 4.

[*References are to pages.*]

INCREASE OF CAPITAL STOCK,
  directors may not order, 95.

INDEMNITY BOND,
  form, 252.

INDIVIDUAL LIABILITY,
  by-laws violated may result in, 86.

INDORSEMENT,
  president's power of, 101.
  treasurer's power of, 103.

INDUSTRIAL CORPORATIONS,
  See BUSINESS CORPORATIONS.

INHERENT POWERS,
  See POWERS.

INSANE,
  stock, subscriptions and ownership, 14.

INSOLVENCY,
  duty of state to protect corporation creditors, 8.
  re-organization of insolvent corporation, 189.
  stockholders' rights in case of, 133.

INSPECTORS OF ELECTION,
  certificate of, form, 248.
  oath of, form, 248.

INSURANCE,
  law governing corporations, 2.

INSTALLMENT BOOKS,
  character and contents, 178, 179.

INVESTMENTS,
  bonds and stock, 275.
  formation of corporation by individuals, 14.

INTEREST,
  bond holder's right determined how, 64.

J

JOINT STOCK COMPANY,
  defined, 4.
  differs from corporation, 4.
  statutory authority for, 4.

[*References are to pages.*]

L

LAWS,
    corporation governed by what, 2.

LAWYER,
    the corporation, 272.

LEASE,
    directors may not execute, 95.

LIENS,
    bonds secured by, 125.

LIMITED LIABILITY,
    advantages from incorporation, 6.

LISTED SECURITIES,
    rules of admission, New York stock exchange, 303.

LOANS,
    directors may negotiate, 94.
    necessity as an aid to capitalization, 33.
    statement by corporation to obtain, 166.

LOOSE LEAF RECORDS,
    minutes of meetings kept by, 169.

LOST SHARES,
    replacing by new certificate, 124.

M

MACHINERY,
    depreciation, how charged in bookkeepng, 152.

MAJORITY,
    quorum at stockholders' meeting, 135.

MAIL,
    notice of stockholders' meetings, 136.

MAINE,
    advantages and disadvantages of corporation laws, 24.

MANAGER,
    powers and duties of, 104.
MARKETING PROMISSORY NOTES, 267.

MARRIED WOMAN,
    corporations, may form, 14.

[References are to pages.]

MASSACHUSETTS,
  advantages and disadvantages of corporation laws, 24.

MEETINGS,
  See STOCKHOLDERS' MEETINGS.

MINING,
  advantages of incorporation, 5.

MINORITY,
  privileges at stockholders' meetings, 138.

MINORS,
  subscriptions to corporation stock, 14.

MINUTE BOOK,
  character and contents, 168–171.
  correction and approval of minutes, 170.

MINUTES,
  secretary keeps, 102.

MORTGAGE,
  bonds of corporation secured by, 39–44.
  bonds secured by, 126.
  directors may execute, 94.
  trust companies as trustee, 60.

MOTIONS,
  minutes of introduction and passage of, 169.

N

NAME,
  See CHANGE OF NAME.
  corporation names, 67.

NATIONAL CORPORATIONS,
  congress may charter, 3.

NEGLIGENCE,
  loss or theft of shares of stock, 124, 125.

NEGOTIABLE INSTRUMENTS,
  stock certificates are not, 124.

NET EARNINGS,
  See PROFITS.

NEVADA,
  advantages and disadvantages of corporation laws, 24.

[*References are to pages.*]

NEW JERSEY,
  advantages and disadvantages of corporation laws, 25.

NEW MEXICO,
  advantages and disadvantages of corporation laws, 26.

NEW YORK,
  advantages and disadvantages of corporation laws, 25.

NON-RESIDENT,
  domestic corporations as non-residents, 27–28.

NOTICE,
  director's meetings, 98.
  dividend, form, 250.
  stockholders' meetings, 136.
  waiver of notice of director's meeting, 99.

O

OATH,
  inspectors of election, form, 248.

OFFICERS,
  See DIRECTORS.
  auditor, powers and duties, 105.
  by-laws violated may result in individual liability, 86.
  counsel, powers and duties of, 104, 105.
  de facto powers conferred by permission, 98.
  director's liability for acts of, 95.
  election and removal by directors, 96.
  election by stockholders, 96.
  number and classes of officers in corporation, 97.
  powers, source and extent, 96, 97.
  president, powers and duties, 100, 101.
  secretary, powers and duties, 102.
  treasurer's powers and duties, 103, 104.
  two or more offices held by same person, 97.
  vice-president, powers and duties, 101, 102.

OPTION,
  underwriters' option on stocks and bonds, 49.

ORDER OF BUSINESS,
  stockholders' meetings, 137.

ORGANIZATION,
  where to incorporate, 22.

[*References are to pages.*]

OUTSTANDING STOCK,
  definition and value, 118.

OVER-ISSUED STOCK,
  definition, 120.
  good faith purchaser's rights, 121, 122.

P

PARLIAMENTARY LAW,
  See RULES OF ORDER.

PARTNERSHIP,
  advantages of incorporation, 7.
  changing to corporation, 65–67.
  joint stock company distinguished from corporaton, 4.
  may own corporation stock, 14.
  promoters may be liable as partners, 21.

PAR VALUE,
  shares of stock should sell at, 35.

PATENTS,
  value when exchanged for stock, 69.

PAYMENT,
  stockholders' liability on partly paid shares, 134.

PORTO RICO,
  advantages and disadvantages of corporation laws, 27.

POWERS,
  inherent powers of corporation, 77.
  ultra vires acts, 77, 78.

PREFERRED STOCK,
  bonds of corporation compared with, 40–41.
  classification as to dividends, 114.
  cumulative dividends, effect of issue, 41.
  definition, 113–116.
  distribution of assets on dissolution, 114.
  dividend payments controlled by articles of association, 65.
  form for certificate and stub, 230.
  issue to trustee for sale, 65.
  price with reference to time of issue, 62.
  redemption by corporation, 115, 116.
  right to issue, 116.
  voting at stockholders' meetings, 137.
  voting rights of holder, 116.

[*References are to pages.*]

PRESIDENT,
  directors' meetings, presides at, 99.
  negotiable instruments executed by, 101.
  powers and duties, 100, 101.
  stockholders' meetings called to order by, 137.

PRINCIPAL AND AGENT,
  directors are agents of corporation, 92.

PROFIT,
  capitalization fixed on basis of, 34, 35.
  corporations organized for, 2.
  depreciation and renewals charged against, 152, 153.
  dividends on preferred stock payable from, 114, 115.
  promoter forming a corporation, 16.
  stockholders may share in, 133.

PROFIT AND LOSS,
  additions to property charged against when, 155.
  auditor's charges against, 152.

PROMISSORY NOTES,
  bonds of corporation likened to, 39–44.
  marketing in open market, 267.

PROMOTER,
  accounting for secret profits, 19.
  commission for forming corporation, 18.
  contracts of corporation made by promoter, 21.
  contract of, form, 193.
  corporation's liability for services of, 19.
  definition and functions of, 15.
  determining amount of capitalization, 32–39.
  directors provided for new corporation must be independent, 17.
  failure to organize corporation, 19.
  fiduciary relation, 15–17.
  fraud, aiding and abetting, 22.
  fraud and concealment, 18.
  partnership liability, 21.
  placing stocks and bonds, 45, 49.
  profits of forming corporation, 16.
  prospectus disclosing interest, 17.
  relation of promoters among themselves, 21.
  subscriptions obtained by misrepresentation, 18.
  trustee for proposed corporation, 17.

[References are to pages.]

PROSPECTUS,
  misrepresentations contained in, 18.
  promoter's interest disclosed by, 17.

PROXY,
  at stockholders' meetings, attendance by, 138.
  director cannot be represented by, 99.
  form for particular meeting, 247.
  form for specific action, 247.
  simple form, 247.

PUBLICATION,
  notice of stockholders' meetings, 136.

PUBLIC UTILITY CORPORATIONS,
  classification of corporations, 2.

PURPOSES OF INCORPORATION,
  forms of purpose clauses, 199 *et seq.*

Q

QUORUM,
  directors' meetings, what constitutes, 99.
  stockholders' meeting must be attended by, 135.

R

RAILROADS,
  bonds, classification of, 125–130.
  bond issues, value determined how, 128, 129.
  improvements, bookkeeping charges for, 153–156.
  law governing corporations, 2.

RATIFICATION,
  corporation liable for unauthorized acts, 95.

RECEIVERSHIPS, 260.

RECEIVER'S CERTIFICATE,
  form, 241.

REDEMPTION,
  bonds subject to redemption, 130.
  preferred stock redeemed by corporation when, 116.

REGISTERED BOND,
  definition and incidents, 129.

[*References are to pages.*]

REGISTRAR,
- good faith purchase on transfer by registrar, 121, 122.
- negligence, liability for, 122.
- securities must be registered when, 60.
- use, powers and duties, 120–122.

REMOVAL,
- directors may move principal office, 81.

RENEWAL,
- charter, effect of renewal, 190.
- charged for in corporate bookkeeping, 153.

REORGANIZATION,
- dissolution may be followed by, 80.
- law concerning, 188–190.

REPEAL,
- dissolution by repeal of charter, 185.

REPORTS,
- annual reports required by law, 23–27.
- auditor's duty concerning, 147, 148.
- auditor's statement of condition, 151–168.
- president makes when, 101.

RESERVE,
- providing for in determining amount of capital, 35.

RESIDENT AGENT,
- corporations organized to do business in other states, 27.

RESIGNATION,
- stockholder cannot withdraw when, 185.

ROCK ISLAND,
- distribution of stocks and bonds, 47, 48.

RULES OF ORDER,
- definition and use, 87.

RULES ON SECURITIES,
- New York Stock Exchange, 303.

S

SALARIES,
- counsel for corporation, 105.
- treasurer's compensation, 104.
- president receives when, 100.
- vice-president receives when, 102.

[*References are to pages.*]

SALE,
    dissolution effected how, 186.
    good faith purchase on transfer by registrar, 121, 122.

SCRIP,
    record in instalment books, 178, 179.

SEAL,
    corporation may have and use, 77.
    corporate, 270.

SECRETARY,
    corporation calendar kept by, 179–181.
    duties in transfer of stock certificates, 124.
    elections, duties concerning, 138.
    minute book, should keep, 168, 169.
    powers and duties, 102.
    stock certificate book, duties concerning, 173, 174.
    stockholders' meetings, duties concerning, 136, 137.

SECURITIES,
    bonds classified, 125–130.
    definition, 50.

SERVICES,
    promoter may recover from corporation, 19.
    stock issued in payment for, 23–27.
    value when exchanged for stock, 68, 69.

SIGNATURES,
    corporate, 270.

SINKING FUND,
    redemption of bonds provided by, 43.

SHARES OF STOCK,
    bonus and partly paid shares, 111, 112.
    distinguished from capital, 110.
    execution and levy upon, 110.
    kinds of stock defined, 113–120.
    liability of holder if sold below par, 111, 112.
    liability of holder when full paid, 111.
    not essential to ownership of capital, 110.
    personal property of stockholders, 110.
    refusal to transfer on books, 174.
    stockholders' liability on partially paid shares, 134.
    stockholders' meetings, 136–139.
    subscription book, 176–178.
    transfer, cancellation of certificates, 173.

[*References are to pages.*]

SOUTH DAKOTA,
  advantages and disadvantages of corporation laws, 25.

SPECIAL LAWS,
  incorporation by special act, 4.

SPECIAL MEETINGS,
  directors may hold, 99.

SPECIAL STOCK,
  definition, 117.

STATEMENT,
  interpretation by accountant, 157–167.
  American Bankers' Association standard form for corporation, 264.

STOCK,
  See INCREASE OF CAPITAL STOCK; SHARES OF STOCK.
  advantages from issue of corporation stock, 6.
  bonds distinguished from, 40–41.
  bonus and watered shares, 111, 112.
  capitalization of company, 32–39.
  common stock defined, 113.
  corporation allowed to hold when, 25, 26.
  distinguished from capital, 109.
  dividends earned before stock is issued, 63.
  essential in corporations for profit, 110.
  full paid stock defined, 111.
  income-yielding capacity, table, 320.
  kinds of stock defined, 113–120.
  listing in stock exchange, 59.
  nature and characteristics, 109, 110.
  partly paid stock defined, 111.
  payment of subscriptions before beginning business, 26.
  placing by promoters and agents, 45, 49.
  preferred stock defined, 113–116.
  price with reference to time of issue, 62, 65.
  registrars and transfer agents, 120–122.
  sale at market price by going corporation, 112.
  secretary's duties concerning, 102.
  subscriptions and ownership, 14.
  subscription, effect of, 69, 70.
  treasurer's duties concerning, 103.

[*References are to pages.*]

STOCK—*Continued.*
  valuation of property received in exchange, 68, 69.
  value determined by stock exchange, 61, 62.
  void when over-issued, 120.

STOCK BROKERS,
  origin of, 286.

STOCK CERTIFICATE,
  incidents of issue and transfer, 123–125.
  loss or destruction, effect of, 124.
  loss or theft after assignment in blank, 124, 125.
  negotiability, 124.
  origin of, 283.
  registrar's liability on void certificate, 122.
  registrar or transfer agent signs when, 121.
  stockholders' rights concerning, 134.

STOCK CERTIFICATE BOOK,
  character and contents, 172–174.
  return of certificate, 173.
  transfers entered in, 174.
  transfer of shares, 173.

STOCK EXCHANGE,
  functions and declarations of purpose, 61.
  listing stocks and bonds, 59.
  origin of, 287.
  registry of securities required, 60.
  rules of business, 59, 62.
  rules on admission of securities, New York Stock Exchange, 303.

STOCKHOLDERS,
  amendment of charter cannot be made by, 79–81.
  auditing books of officers, 105.
  auditor as representative of, 147, 148.
  by-laws adopted by, 84, 85.
  corporation distinct from, 1.
  directors and officers chosen by, 96.
  dissolution of corporation effected by, 185, 186.
  dividend book for benefit of, 176.
  ledger, character and contents, 171, 172.
  list kept in home state, 28.
  meetings, 136–139.
  meetings, duty of secretary, 102.

[*References are to pages.*]

STOCKHOLDERS—*Continued.*
meetings in state where corporation was created, 27.
meetings, time, place and purpose, 136–139.
meetings, where held, 23–27.
reorganization, authority for, 189.
rights, powers and liabilities, 133–135.
transfer of shares, 123–125.
unanimous consent to change of charter or articles, 79.

STOCKHOLDERS' LEDGER,
character and contents, 171, 172.
transfers entered in, 174.

STOCKHOLDERS' MEETING,
amendment of charter or articles, 81.
calendar recording date of, 179–181.
certificate of officers, 169.
dissolution ordered by, 186, 187.
minority, privileges of, 138.
minute book records, 168, 169.
minutes corrected and approved, 170.
notice of annual, form, 245.
notice of special, form, 245.
notice to stockholders, 136.
objections entered in minutes, 170.
order of business, 137.
place of holding, 136.
presiding officer, 136, 137.
proxies voted at, 138.
proxy for, form, 247.
regular and special meetings, 64.
special meetings, 139.
voting, manner of, 137.
voting, who entitled to privilege, 137.
waiver of notice, form, 246.

STOCK SUBSCRIPTION,
assessment, definition and effect, 70, 71.

STUBS,
stock certificate book, entries in, 172, 173.

SUBSCRIPTIONS,
by owners of business in agreement with promoter, form, 194.
effect and binding force, 69–71.
forfeiture for non-payment, 70.

[*References are to pages.*]

SUBSCRIPTIONS—*Continued.*
  instalment books recording payments, 178, 179.
  promoter's liability for misrepresentation, 18.
  stockholders have preference, 133.
  stockholder's liability upon, 134.
  subscription book, record of, 176–178.
  underwriting defined, 70.
  who forbidden to form corporations, 14.

SUBSCRIPTION BLANK,
  after organization, form, 196.

SUBSCRIPTION BOOK,
  character and contents, 176–178.

SURETY COMPANY,
  treasurer should give bond signed by, 104.

SYNDICATE,
  underwriting corporation securites, 46, 47.

TABLES,
  income from stocks, 320.
  incorporation fees, 316–317.

TAXATION,
  bond issue treated as a debt, 44.
  calendar recording date for payment, 179–181.
  statutes for organization of corporations, 23–27.

TAXES,
  foreign corporations required to pay, 28–31.
  reduction by bond issue, 44.
  table of, 318–319.

THEFT,
  estoppel of owner of shares assigned in blank, 124, 125.

THEORY,
  duty of state in creating corporation, 7.

TRANSFER,
  dissolution of corporation effected how, 185, 186.
  incidents of issue and transfer of stock, 123–125.
  refusal to act until court has ruled, 174.
  registrars and transfer agents, 120–122.
  stock certificate book, entries in, 173.

[*References are to pages.*]

TRANSFER BOOK,
  character and contents, 174–176.
  stock certificate book as substitute, 174.

TRAVELING SALESMAN,
  foreign corporation, representative of, 29.

TREASURER,
  bond and sureties, 103, 104.
  dividend book kept by, 176.
  powers and duties, 103, 104.

TREASURY STOCK,
  definition, 119.

TRESPASS,
  directors personally liable when, 95.

TRUSTS,
  organization through financial banking, 50, 59.
  size of, 278.

TRUST COMPANIES,
  fiscal agents in placing stocks and bonds, 45.
  stock exchange recommendations, 60.
  registrars and transfer agents for corporations, 120–122.

TRUST DEED,
  trust company as trustee, 60.

TRUSTEE,
  issue of preferred stock for sale, 65.

TRUSTS AND VOTING TRUSTS, 257.

UNDERWRITING,
  definition, 46.
  form of agreement, 196.
  sales of stocks and bonds through underwriters, 48, 49.
  stock subscription, agreement concerning, 70.

UNINTELLIGENT COMPETITION, 289.

UNISSUED STOCK,
  definition, 118.

UNLISTED SECURITIES,
  rules of admission, N. Y. Exchange, 309.

[*References are to pages.*]

ULTRA VIRES,
  definition of term, 77, 78.
  director's personal liability, 95.

VALUE,
  property exchanged for stock, 68, 69.
  stock exchange gives publicity to, 61, 62.

VICE-PRESIDENT,
  powers and duties of, 101, 102.

VIRGINIA,
  advantages and disadvantages of corporation laws, 26.

VOTING,
  bondholders allowed to vote when, 26.
  preferred stockholder's right, 116.
  stockholders' meetings, 136, 137.
  stockholders' powers concerning, 135–139.

VOTING TRUST, 257.
  agreement, form, 243.

WAIVER,
  notice of directors' meeting may be waived, 99.

WALL STREET,
  financial banking and trust organization, 50, 59.

WASH SALES,
  definition of, 54.

WEALTH,
  in corporate enterprise, 281.

WEST VIRGINIA,
  advantages and disadvantages of corporation laws, 26.

WINDING UP BUSINESS,
  directors may not order, 95.

~~YC 26728~~
YC 26729

150667

[illegible] W. C.
[illegible]
HB 27
.W3

UNIVERSITY OF CALIFORNIA LIBRARY